United Nations A/HRC/35/27

General Assembly

Distr.: General
18 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report detailing the activities of the former Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, during the reporting period and until the end of his tenure on 31 October 2016. In addition, the activities carried out so far by the new Special Rapporteur, Cecilia Jimenez-Damary, who assumed her mandate on 1 November 2016, as well as her methods of work and strategic and thematic priorities, are presented.

GE.17-06189(E)

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I. Introduction

1. The present report is the first report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary. It is submitted in accordance with Human Rights Council resolution 32/11. The Special Rapporteur was appointed by the Human Rights Council during its thirty-third session and she assumed her mandate on 1 November 2016.

2. The report provides an overview of the activities undertaken by the previous mandate holder, Chaloka Beyani, since his last report to the Human Rights Council in June 2016 (A/HRC/32/35). In the second part, the Special Rapporteur provides a short summary of her activities conducted to date. She outlines her strategic priorities and the working practices that will guide the work of her mandate as well as the thematic issues that will be the focus of her work until 2019.

3. The Special Rapporteur pays tribute to the achievements of her predecessors, who have provided a legacy of essential standards for the protection of internally displaced persons and increased awareness of their plight globally. They have led the development of key standards on the protection of internally displaced persons, have provided valuable resources and recommendations and have helped to inspire new approaches to protection of internally displaced persons. They have demonstrated the necessity of the mandate of the Special Rapporteur, which, with adequate resources and support, will continue to be a voice for internally displaced persons and to advocate effectively for their human rights nationally, regionally and internationally. The Special Rapporteur thanks those States that have supported the mandate and looks forward to continued and wider support from additional countries in all regions.

II. Activities of the former Special Rapporteur

4. In its resolution 32/11, the Human Rights Council mandated the Special Rapporteur to address internal displacement, in particular by mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system, working towards strengthening the international response to internal displacement, engaging in coordinated international advocacy and action to improve protection and respect of the human rights of such persons, and continuing and enhancing dialogue with Governments, intergovernmental, regional and non-governmental organizations and other relevant actors.

A. Mainstreaming the human rights of internally displaced persons in the United Nations system

5. The former Special Rapporteur continued to support the mainstreaming of the human rights of internally displaced persons within the United Nations system and the wider humanitarian community. His participation in the Inter-Agency Standing Committee, at the level of the Principals, proved essential in that regard, as it helped ensure and enhance collaborative approaches and strong links with key United Nations agencies as well as other international organizations and civil society.

6. The former Special Rapporteur participated in the World Humanitarian Summit, in Turkey, in May 2016; in the humanitarian affairs segment of the Economic and Social Council, in June 2016; in a high-level round table in Costa Rica, in July 2016, which culminated in a call to action for a comprehensive, multisectoral regional response to address forced displacement in Central America; and in the General Assembly high-level meeting on addressing large movements of refugees and migrants, in September 2016.

B. Cooperation with regional and international organizations

7. The former Special Rapporteur continued his engagement with the African Union to promote ratification and implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). He urged African States that had not yet done so to ratify the Kampala Convention. He emphasized that it was of utmost importance to move to an operational phase, supported by a conference of States parties as required under the Convention, which should adopt a road map for reporting by States and for monitoring implementation. The first Conference of States Parties subsequently took place from 3 to 5 April, in Harare (see para. 43 below). The former Special Rapporteur also debriefed the Council of Europe on his missions to Ukraine, Serbia and Kosovo,[1] and Georgia, in September 2016.

C. Visits conducted under the mandate

Burundi

8. The former Special Rapporteur undertook a working visit to Burundi from 18 to 20 April 2016. He called for the current situation of internally displaced persons to be addressed as a humanitarian issue, and to be delinked from politics, and particularly stressed the importance of ensuring the population's safety, security and freedom of movement. He noted the need to strengthen the humanitarian response to the internal displacement that was occurring due to the ongoing crisis, in order to ensure adequate protection and assistance for internally displaced persons, especially women, children and the elderly. This would also provide an opportunity for addressing the remaining humanitarian needs of persons in protracted internal displacement, notably concerning shelter and access to health care. He stressed the need to apply durable solution approaches for internally displaced persons from the outset of the displacement crisis through protection and assistance response, while increasing efforts towards improving living conditions and promoting durable solutions for persons internally displaced for a protracted period of time as a result of conflict and disasters.

9. He emphasized that the primary responsibility for providing protection and assistance to internally displaced persons lay with the Government, and he therefore encouraged the authorities to adopt the Kampala Convention and establish a legal framework on internal displacement.

Democratic Republic of the Congo

10. The former Special Rapporteur undertook a working visit to the Democratic Republic of the Congo from 21 to 26 April 2016. In light of the decision taken by the provincial government to progressively close all internally displaced persons' camps in North Kivu, the main objective was to promote the orderly conduct of the camp closures, with full respect for international standards including the Kampala Convention, and with a strategic approach aimed at achieving durable solutions. He expressed deep concern at the persistently high levels of violence and of human rights violations, and condemned the targeted attacks against civilians, including internally displaced persons, the widespread sexual violence, the recruitment and use of children by parties to the conflict, and the forced displacement of thousands. He emphasized the need to hold those responsible accountable. Internally displaced persons live in dire conditions, with little access to drinking water or health care, and with food insecurity, and children lack access to education.

11. He recommended to the Government to continue working towards the adoption of a law on internal displacement, and a policy and plan of action for its implementation, with the support of the international community. He also encouraged the authorities to

[1] All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

strengthen their efforts to promote the integration of internally displaced persons' needs in development plans and interventions.

El Salvador

12. The former Special Rapporteur conducted a working visit to El Salvador from 11 to 14 August 2016 as part of a regional visit. He noted that ongoing internal displacement in the northern triangle of Central America, due to various causes, including displacement triggered by widespread criminal and gang-related violence, had had a devastating impact on the lives of those affected and required preventive action and measures to protect the rights of internally displaced persons. His visit presented a unique opportunity to start consulting with government representatives and other stakeholders on the challenges involved in providing protection and assistance to internally displaced persons. He welcomed the willingness of the Government to carry out a characterization study on the internally displaced population in El Salvador with a view to developing concrete proposals on how to address internal displacement in El Salvador. The Government of El Salvador subsequently issued an invitation to the current Special Rapporteur to undertake an official country visit in August 2017.

Honduras

13. The former Special Rapporteur conducted a follow-up visit to Honduras from 15 to 17 August 2016. The visit was another opportunity to discuss initiatives to prevent and respond to internal displacement and implement the recommendations of his previous report (A/HRC/32/35/Add.4) following his mission there in November 2015. He commended the Government for the measures taken to establish a legal framework for the protection of internally displaced persons and to criminalize the offence of criminal gang-related displacement, as well as to facilitate protection and assistance for internally displaced persons in the short term based on the recommendations of his report. He encouraged the Government of Honduras to continue working towards the strengthening of such measures, including by ensuring a sufficient budgetary allocation for this purpose.

Mexico

14. The former Special Rapporteur conducted a working visit to Mexico on 18 and 19 August 2016 to start consultations with stakeholders on the challenges with regard to protection and assistance for internally displaced persons. He held discussions with the Senate on opportunities to establish a normative and institutional framework for protection of internally displaced persons, following the recent amendments to the Constitution. He welcomed the willingness of the Government to undertake a study of the various forms of displacement in order to pave the way for concrete measures.

Nigeria

15. The former Special Rapporteur conducted an official visit to Nigeria from 23 to 26 August 2016. The visit focused on the situation in the north-east of the country, affected by the Jama'atu Ahlus-Sunna Lidda'Awati Wal Jihad (Boko Haram) insurgency since 2009. The insurgency and the Government's counter-insurgency have killed thousands of people and have internally displaced nearly 2 million. As areas have been recovered, following offensives, the full extent of the humanitarian crisis has begun to be revealed, with severe malnutrition and food insecurity threatening the lives of many thousands. Ensuring that urgent food, shelter, medical care, water, sanitation systems and other essential services reach internally displaced persons without delay is critical. Ensuring the protection of vulnerable internally displaced persons, many traumatized by violence, must be a paramount concern.

16. Credible evidence of widespread human rights violations means that the situation must also be recognized as a human rights crisis. Internally displaced persons' camps have been targeted by Boko Haram and internally displaced persons have also been killed as a

result of military operations.[2] Sexual exploitation and violence, including demands for transactional sex in order to access both food and non-food items, are commonplace. The risks have been exacerbated by a lack of adequate assistance for internally displaced persons. As well as the abduction of many women and girls by Boko Haram, the whereabouts of thousands of displaced men and boys remains unclear. While many have been killed by Boko Haram or during the counter-insurgency or are held captive by Boko Haram, others are being detained by security forces. They must be treated in accordance with international standards. Measures to identify the dead and missing must be stepped up (see A/HRC/35/27/Add.1).

Ukraine

17. The former Special Rapporteur undertook a follow-up visit to Ukraine from 1 to 9 September 2016. He commended the Government for the progress it had made, which included the adoption of a law on internal displacement and the establishment of the Ministry for Temporarily Occupied Territories and Internally Displaced Persons, but found that more needed to be done to implement the law effectively and to harmonize resolutions passed under its framework, as well as to establish effective coordination mechanisms among ministries of the national Government, regional authorities and municipal authorities. He recommended to the Government to formulate a comprehensive and forward-looking strategy on internally displaced persons that would be geared towards integrating their needs and rights (including in the areas of employment, housing, social assistance, documentation and political participation) into displacement-sensitive policies and programmes, with the ultimate aim of achieving durable solutions for internally displaced persons.

18. A major challenge affecting the welfare of internally displaced persons has been the link between their registration and the payment to them of pensions and social benefits, due to a system based on the verification of places of residence, which has led to suspension of payments affecting about 500,000 internally displaced persons resident in eastern Ukraine. The Special Rapporteur strongly recommended that such payments be delinked from the registration of internally displaced persons. Freedom of movement also remained problematic. At the few checkpoints along the contact line, people queued for hours or even days, at risk to their safety. No special arrangements were made for the elderly, children, pregnant women or persons with disabilities. The Special Rapporteur called on all parties to grant unimpeded access for humanitarian assistance and to allow people to move freely to reach safety, to access services and to exercise their rights.

Serbia and Kosovo

19. The former Special Rapporteur conducted a working visit to Serbia and Kosovo from 11 to 15 September 2016 to follow up on recommendations that he had made in 2013. He urged the intensification of efforts to achieve durable solutions for persons who had been in protracted internal displacement for some 17 years. He emphasized that all durable solution options for internally displaced persons should remain open, and must be delinked from political processes. Many internally displaced persons live in squalid conditions, especially members of the Roma, Ashkali and Egyptian communities, many of whom have specific protection needs and experience challenges in realizing their rights to housing, employment, health care and education. Adequate housing is a key component of durable solutions and should be linked to livelihood opportunities. Other issues of concern to internally displaced persons include illegal occupation of properties, and compensation where properties cannot be recovered.

Georgia

20. The former Special Rapporteur conducted a follow-up visit to Georgia from 24 to 29 September 2016. He commended the positive amendments to the legislation on internal displacement and the new registration exercise for internally displaced persons in 2013 and

[2] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=21100.

2014, but urged the Government to review its approach to internally displaced persons, including those displaced in the early 1990s and in 2008, and to continue its transition from a status-based to a needs-based approach. He emphasized the need to develop a plan for the closure of the remaining "collapsing collective centres" and to increase the Government's efforts to integrate the needs of internally displaced persons into displacement-sensitive national, regional and local development plans and initiatives.

21. The Special Rapporteur encouraged the donor community to continue to fund and support durable solutions, and urged all parties to reach a political solution to enable internally displaced persons who wished to return to their areas of origin to do so voluntarily and in safety and dignity. He regretted that the razor-wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, continued to deprive internally displaced persons and displacement-affected communities of freedom of movement and created obstacles to their access to land, property and livelihoods. In relation to Abkhazia, Georgia, he regretted that he had been denied access by the authorities in control there. He particularly warned against the closure of crossing points along the dividing line and stressed the need to guarantee access to documentation to all returnees in order for them to enjoy their rights, including freedom of movement.

Afghanistan

22. The former Special Rapporteur conducted an official visit to Afghanistan from 11 to 20 October 2016. The internal displacement trends are negative and worsening. In 2016, more than 600,000 people fled conflict to seek safety inside Afghanistan. On average, 1,500 people were forced from their homes every day. An influx of refugees and undocumented Afghans, pushed back from Pakistan, has increased the burden on a government lacking the resources and capacity to respond effectively. With displacement and returns predicted to rise in 2017, further escalation of the conflict and displacement would overwhelm the capacity of the Government and its partners to respond. While the political will to protect internally displaced persons is emerging, government responses do not yet meet the needs of internally displaced persons.

23. The National Policy on Internally Displaced Persons is a commendable policy tool, yet the implementation of it has been poor. Responses to short-term displacement are barely adequate, while those in protracted displacement are commonly left to fend for themselves. While resource shortfalls are blamed by the Government for lack of progress, a deficit of good governance and accountability are contributing factors. In Herat and Mazar-e-Sharif, projects are securing land and providing homes, services and livelihoods, and are demonstrating that progress towards durable solutions is possible. However, they are the exception, and should be replicated throughout the country (see A/HRC/35/27/Add.3).

III. Preliminary activities and a road map for the next three years

A. Working methods

24. The Special Rapporteur considers that internally displaced persons are frequently the least, the last and the lost in terms of national and international attention to their plight. It is a core priority of the mandate holder to promote visibility and effective protection for all internally displaced persons, including those who have become invisible or neglected, the most vulnerable, and those facing the greatest challenges resulting from their displacement. She will therefore take an impact-oriented and human rights-based approach to her work, focusing on building and strengthening constructive partnerships and collaborations with the objective of delivering effective assistance and protection on the ground. Her working methods will build on those established by her predecessors, while also emphasizing the identification of opportunities and entry points to engage directly and constructively with States and other stakeholders in emerging, ongoing and protracted internal displacement situations.

25. The Special Rapporteur will continue to seek and conduct country visits in all regions to gather first-hand information on the situation of internally displaced persons and to engage directly and constructively with national authorities and other stakeholders. She will give high priority to those States with the most critical, challenging and persistent displacement situations, while also seeking visits based on her thematic priorities. She has sent initial requests for visits[3] and encourages States to respond positively. The Special Rapporteur welcomes the positive responses received to date from the Government of El Salvador and the Government of Guatemala for her to conduct visits in 2017 and 2019 respectively. In conformity with the practice of the mandate, she will also conduct working visits[4] and follow-up visits, at the invitation of a variety of stakeholders, including United Nations agencies, to consider internal displacement issues and to engage with a range of actors, including national authorities.

26. The Special Rapporteur will continue and strengthen the existing cooperation established between the mandate and United Nations organizations. She will continue to participate in and actively contribute to the work of the Inter-Agency Standing Committee (IASC) as a Principal, and will work to provide it with guidance and support on the subject of internally displaced persons. To that end, she participated in her first IASC Principals' meeting in Geneva on 6 December 2016, which will be followed by the IASC Principals' retreat scheduled for 28 April 2017. Moreover, she took part in an IASC Working Group meeting held in Rome on 5 and 6 April 2017, in which she provided an update on activities under a joint project between the Special Rapporteur and the Joint IDP Profiling Service[5] and in collaboration with a broad group of development, humanitarian and peacebuilding actors[6] to operationalize the IASC Framework on Durable Solutions for Internally Displaced Persons. The project is aimed at developing tools, methodologies and guidance, for shared and comprehensive yet practical approaches to durable solutions analysis in displacement situations.

27. The Special Rapporteur welcomes the support provided to her mandate by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Equally, in the conduct of her activities and country visits, she will continue to collaborate closely and systematically with United Nations country teams, and to work closely with the Office for the Coordination of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees (UNHCR). The collaboration between the mandate and these key United Nations entities has proved highly effective, notably in the context of country visits undertaken, during which they have provided invaluable support, assistance, and information. The Special Rapporteur thanks them for their continuing support for her work and looks forward to continuing and strengthening this collaboration.

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[3] To date, country visits have been requested to Bangladesh, Colombia, El Salvador, Guatemala, Haiti, Malawi, Mexico and Nepal.

[4] Such working visits will not normally trigger a report to the Human Rights Council unless this is explicitly agreed to by the State concerned.

[5] The Joint IDP Profiling Service is an inter-agency service that was set up in 2009. Based in Geneva, its mission is to support governments and humanitarian and development actors in designing and implementing collaborative profiling exercises. Working primarily in situations of internal displacement, the Service seeks to promote a culture of evidence-based decision-making in displacement situations. Provided both on-site and remotely, the Joint IDP Profiling Service tailors its support to needs on the ground and enhances in-country profiling capacity-building to generate locally owned, impactful and agreed-upon data. To learn more about the Service and its work, visit www.jips.org/en/home.

[6] The Technical Steering Committee, comprising a broad group of partners that support durable solutions to displacement. Its members include the Danish Refugee Council, the International Committee of the Red Cross, the Internal Displacement Monitoring Centre, the International Organization for Migration, Feinstein International Center/Tufts, the Norwegian Refugee Council, the United Nations Peacebuilding Fund, members of the Solutions Alliance Research, Data and Performance Management Group, the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat) the Office for the Coordination of Humanitarian Affairs, UNHCR, the World Bank, Displacement Solutions Platform and the Regional Durable Solutions Secretariat.

28. In view of her strategic and thematic priorities, the Special Rapporteur has also begun to significantly strengthen cooperation and institutional relationships with the United Nations Development Programme, the International Organization for Migration and the United Nations Children's Fund (UNICEF), among others. In addition to conducting bilateral meetings with these entities, she is investigating practical measures for them to institutionalize their cooperation with the mandate, including through the establishment of focal points in such organizations relating to specific areas of collaboration. Furthermore, the Special Rapporteur will expand her collaboration with national human rights institutions, with a view to identifying positive practices in their work relating to internally displaced persons (see section IV. D. below).

29. Collaboration with civil society organizations, at the international and national levels, has been instrumental in the work of this mandate and the Special Rapporteur will continue and enhance her engagement with civil society organizations working on protection of internally displaced persons. Furthermore, the Special Rapporteur will put particular emphasis on consultations with internally displaced persons and displacement-affected communities and, where they exist, with internally displaced persons' organizations or associations, which remain key counterparts for the mandate in order to ensure that their voices and perspectives are better reflected in all relevant forums. She will seek to increase the presence and role of internally displaced persons, including women, in national, regional and international forums to ensure that their unique experiences and perspectives come to the fore.

B. Strategic priorities and initial activities

30. Since taking up her duties on 1 November 2016, the Special Rapporteur has undertaken a series of bilateral consultations with key stakeholders in order to shape her strategic priorities. This process of consultation culminated on 25 January 2017 with a stakeholder meeting in Geneva for the Special Rapporteur to present and receive feedback on her initial strategic priorities and on the main thematic priorities for her work over the next three years. She was honoured to have her predecessors, Chaloka Beyani and Walter Kälin, on the panel, and attendance by over 35 participants from Member States, United Nations agencies and civil society, who provided their perspectives, views and recommendations. Following the event, on 21 February 2017, the Special Rapporteur had occasion to present her strategic and thematic priorities to a broader, online audience of close to 300 persons worldwide through a web course hosted by Professionals in Humanitarian Action and Protection.[7]

31. Enhanced international attention has been given to large movements of refugees and migrants, including in the context of the United Nations Summit for Refugees and Migrants, held in New York on 19 September 2016, and of subsequent processes under way to adopt global compacts on safe, orderly and regular migration and on refugees by September 2018. The Special Rapporteur urges the international community to ensure that it maintains much-needed attention on the situation of internally displaced persons, recognizing that many who have crossed international borders as refugees or undocumented or trafficked migrants have initially been internally displaced in their own countries and have not been provided with the necessary protection and support allowing them to remain in their own countries if they so wish.[8]

32. While internally displaced persons have the right to cross international borders and the right to seek asylum in other countries, both of which must be guaranteed, responding to their protection and assistance needs within their countries, supporting durable solutions for them and addressing the overall root causes of their displacement remains fundamental.

[7] See https://phap.org/civicrm/event/info?id=393.

[8] Following the summit, the former Special Rapporteur joined a number of United Nations and non-governmental organizations in writing an open letter to Member States urging them to do more to support internally displaced persons and the communities that host them.

Indeed, the New York Declaration for Refugees and Migrants points to links between internal displacement and large movements of migrants and refugees:

> We recognize the very large number of people who are displaced within national borders and the possibility that such persons might seek protection and assistance in other countries as refugees or migrants. We note the need for reflection on effective strategies to ensure adequate protection and assistance for internally displaced persons and to prevent and reduce such displacement.[9]

33. At the same time, the Special Rapporteur points out that the primary responsibility for protecting populations of internally displaced persons within national State boundaries remains with the respective States. While on the one hand, a good number of these internally displaced persons may be able to cross borders, as pointed out above, a good number remain in the territory of their respective States. The Special Rapporteur is of the strong view that political will and resources must be ensured for protection of the human rights of internally displaced persons, whether or not they would potentially cross international borders.

34. The Special Rapporteur favours continuity in the core strategic work of the mandate on achieving the most important global objectives for the protection of internally displaced persons, and giving necessary attention to the most critical displacement situations and the most vulnerable groups or sectors. In this regard, she will continue activities under her mandate to engage with countries experiencing urgent conflict-induced displacement. In her first visit to the Middle East, the Special Rapporteur participated in the international conference on human rights-based approaches to conflict situations in the Arab region, which was held on 20 and 21 February 2017 in Doha and was hosted by the National Human Rights Committee of Qatar and OHCHR, where she interacted with States and non-governmental organizations (NGOs) from the region.

35. The Special Rapporteur will continue to engage in global and regional initiatives and processes to identify, raise awareness of and concretely address the impact of slow-onset disasters and climate change and its implications on internal displacement. The Special Rapporteur considers that more attention needs to be given to this evolving issue, particularly to the links between climate change and internal displacement, and their implications in relation to human security and conflict.

36. During his tenure, the former Special Rapporteur focused on durable solutions as an essential pillar of the responses to internal displacement from the very onset of displacement. As durable solutions remain elusive and many internally displaced persons globally still live in protracted displacement, the Special Rapporteur is convinced that durable solutions must remain high on the agenda if all stakeholders are to address internal displacement in a comprehensive way. Promoting durable solutions for internally displaced persons will continue to be a primary focus of the work of the mandate, and new initiatives towards this goal will include focused thematic attention to strengthening the participation of internally displaced persons in decisions affecting them, and to ensuring that internally displaced persons are included fully in transitional justice, the restoration of housing, land and property, and peacebuilding processes, which are essential components of durable solutions.

37. The Special Rapporteur will continue to lead an inter-agency project on measuring progress towards durable solutions for internally displaced persons, which is implemented by the Joint IDP Profiling Service in collaboration with a broad group of development, humanitarian and peacebuilding actors. The project is aimed at operationalizing the Framework on Durable Solutions for Internally Displaced Persons[10] by developing a library of indicators, tools, methodologies and guidance, for shared and comprehensive yet practical approaches to durable solutions analysis in displacement situations.

38. The goal of reducing displacement, in line with the outcomes of the World Humanitarian Summit, in which an ambitious goal was set of halving it by 2030, must be

[9] See General Assembly resolution 71/1, para. 20.

[10] Available from www.unhcr.org/50f94cd49.pdf.

achieved in a manner fully consistent with the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons and through the achievement of durable solutions. Consistent with the World Humanitarian Summit outcomes, the Special Rapporteur will place a strong emphasis on strengthening the engagement of development actors at the earliest phases of humanitarian and displacement crises, on ensuring the participation of internally displaced persons as partners and on seeking to strengthen the capacity and resources available to local civil society partners.

39. The Special Rapporteur will continue and enhance work carried out under the mandate[11] to ensure that internally displaced persons are not left behind, including in the context of the 2030 Agenda for Sustainable Development and the implementation of the Sustainable Development Goals. While there is no specific target relating to internal displacement, the Special Rapporteur emphasizes that it is incumbent upon States experiencing internal displacement to establish national implementation programmes and plans that recognize that internally displaced persons are among the most vulnerable populations, who have multiple challenges and needs relating to development priorities — including in the areas of education, health, housing, land, livelihoods and poverty.

40. The Special Rapporteur will continue essential work to promote the development and implementation of legal and policy frameworks that are key to addressing internal displacement at all levels. While her predecessors played a leadership role in developing key international, regional and national frameworks, including the Guiding Principles on Internal Displacement and the IASC Framework on Durable Solutions for Internally Displaced Persons, the Special Rapporteur will prioritize implementation and operationalization of these standards, in close collaboration with national governments, regional mechanisms and other relevant stakeholders. She will advocate for standards to be translated into domestic law and policy and will assist States and other organizations through direct engagement, recommendations, awareness-raising and mobilization of support. In line with this, the mandate holder will continue to co-chair, with UNHCR, the Global Protection Cluster's task team on law and policy.

41. Moreover, the Special Rapporteur co-hosted, with UNHCR and the International Institute of Humanitarian Law, the twelfth Course on the Law of Internal Displacement, held from 14 to 18 November 2016 in San Remo, Italy. The San Remo course has proved to be an excellent opportunity to bring together government authorities involved in protection of internally displaced persons and the Special Rapporteur intends to continue the course as the mandate's flagship course.

42. The Special Rapporteur emphasizes that 2018 marks the twentieth anniversary of the Guiding Principles on Internal Displacement and offers an important opportunity to raise awareness of this global standard and of the plight of internally displaced persons in all regions of the world. She will undertake awareness-raising activities and consult with partners to identify activities to mark the anniversary during 2018 at the national, regional and international levels, including side events and other panel discussions organized by the mandate holder in the context of her annual reporting to the Human Rights Council and the General Assembly. She will encourage national-level activities and commitments in States affected by internal displacement, including steps to incorporate the Guiding Principles on Internal Displacement into national law and policy for the protection of the human rights of internally displaced persons.

43. At the regional level, the Kampala Convention, the only legally binding regional standard on internal displacement, was adopted in October 2009. The Special Rapporteur will continue to support the African Union by promoting implementation of the Convention, including through the Conference of States Parties, and attended the historic first meeting of the Conference, held in Harare from 3 to 5 April 2017. She emphasized that its establishment was an essential next step towards promoting and monitoring implementation of the Convention. She will engage closely with African States — those visited by her predecessors, and other States — to initiate and extend dialogue and to offer

[11] See A/HRC/29/34.

technical cooperation to assist them to fulfil commitments under the Convention. She issued a press release in which she noted that States must adopt concrete measures to ensure that this innovative and comprehensive agreement translates into real gains for internally displaced persons.[12] In view of the positive example set by the African Union, she will continue to advocate for regional standards for the protection of internally displaced persons to be adopted in other regions, as relevant.

44. At the national level, the Special Rapporteur has been deeply concerned by challenges experienced on the ground by humanitarian and development partners in the delivery of their essential services and assistance. These include challenges regarding access to persons and communities affected by internal displacement, due to security concerns or restrictions imposed by national governments, as well as by non-State armed groups and similar non-State actors, particularly in conflict situations. These obstacles seriously hamper their ability to provide essential and life-saving support. The Special Rapporteur will support and collaborate with United Nations agencies and bodies to advocate strongly for States to fulfil their obligations under international humanitarian and human rights law and standards to provide free and unfettered access to all communities in need of assistance. In this context, the Special Rapporteur would also like to give due attention to the role of non-State actors.

45. The Special Rapporteur is alarmed by the inadequate levels of funding available for the essential work of humanitarian and development partners and civil society, especially those on the ground. She applauds the international donor community for its essential funding of humanitarian and development responses globally. She urges donors to maintain and expand essential funding, while incorporating the provisions of the Grand Bargain on humanitarian financing, including flexibility of funding to facilitate new approaches to humanitarian crises, and new ways of working to provide greater attention to durable solutions to internal displacement. A shortfall of funding by some national governments to adequately address their internal displacement situations, as well as mismanagement of funds, poor governance and lack of accountability, have, in some cases, created overreliance on the international community, which is unsustainable in the long term.

46. States have the primary responsibility for promoting and protecting the human rights of internally displaced persons. In December 2016, the Special Rapporteur wrote to Member States and requested their responses to a questionnaire. Among its objectives, the questionnaire sought to identify positive practices in the field of legal, policy and institutional frameworks and activities of States to protect and support internally displaced persons; it also sought to obtain information on measures taken to ensure the active participation of internally displaced persons as partners and not simply beneficiaries, in decisions affecting them and assistance measures. The Special Rapporteur sincerely thanks those States that responded[13] and will study the information provided to inform her future work.

IV. Thematic priorities

47. In line with her strategic priorities, the Special Rapporteur will dedicate her next thematic reports to the following thematic issues: (a) strengthening the participation of internally displaced persons in responses to internal displacement; (b) ensuring the inclusion of internally displaced persons in transitional justice mechanisms and peace processes as part of durable solutions; (c) improving the protection of internally displaced children; (d) enhancing the role of national human rights institutions and other relevant human rights actors in the protection of internally displaced persons; and (e) addressing

[12] See www.globalprotectioncluster.org/_assets/files/news_and_publications/press-release-un-expert-welcomes-the-establishment-of-the-conference-of-states-parties.pdf.

[13] As at 5 April 2017, responses had been received from Albania, Armenia, Australia, Azerbaijan, Colombia, El Salvador, Georgia, Guatemala, Iraq, Kuwait, Malta, Mexico, Mauritius, Slovenia, Sweden, Switzerland, Turkey, Ukraine, the United States of America and the Bolivarian Republic of Venezuela.

neglected drivers of displacement, including development projects and generalized violence. In conducting her thematic work she will consult widely, in order to identify particular issues where her mandate can make the most effective contributions while avoiding duplication of the work of other institutions.

A. Strengthening the participation of internally displaced persons

48. The Special Rapporteur is concerned by evidence coming from internal displacement situations in all regions, including that gathered in the context of numerous country visits undertaken by the mandate holders, that minimum standards for consultation with and participation by internally displaced persons are not being achieved in practice. This undermines the enjoyment of human rights by internally displaced persons as well as progress towards the achievement of durable solutions for them. Internally displaced persons have the right to be involved in all decisions affecting them, at all phases of displacement, and, to the extent possible, to decide on the solutions most appropriate to them and to their location, housing and livelihood preferences. Solutions are only durable when they offer internally displaced persons the best possible available outcomes for them.

49. Interaction with internally displaced persons commonly reveals: a lack of information provided to them at all phases of displacement; infrequent engagement by the authorities responsible; an absence of or inadequate mechanisms and processes for consultation and participation; and decision-making processes that fail to take their views, needs and objectives fully into account. Ensuring that internally displaced persons are included from the outset, in the design, planning and implementation of all actions and measures directed towards them, must be at the heart of responses by national governments and by all humanitarian, development and other relevant actors. Participation empowers internally displaced communities, informs them of their rights and is instrumental in the process of community resilience-building and recovery, where it is effective and results-oriented. Moreover, meaningful participation returns essential dignity to communities devastated by displacement, allowing them to be agents in their own recovery rather than only beneficiaries of assistance.

50. Lack of information, of consultation and of meaningful participation, or tokenistic participation, means that recovery efforts are more likely to fail and may not meet the needs or expectations of the internally displaced communities affected. It can result in deeper and more persistent levels of poverty, as internally displaced persons face the challenges of re-establishing normal lives and appropriate livelihoods under conditions that they were not fully involved in shaping. The challenges to ensuring the meaningful participation of internally displaced persons are significant and must be acknowledged to have hampered efforts in some situations. Cultural, social, historical and political factors must all be taken into account when shaping participation programmes. The challenge remains to ensure that inclusive participation of internally displaced persons is systematically applied and effectively managed in all displacement situations.

51. The Special Rapporteur recognizes the excellent work and analysis that has been conducted by others in this field, including as part of the Brookings Institution and University of Bern Project on Internal Displacement, in its 2008 publication entitled *Moving Beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters*.[14] She considers that her mandate can be instrumental in initiating a call for renewed action and a necessary rethinking of approaches to the participation of internally displaced persons, with the aim of improving these in practice in displacement situations. She will produce a thematic report that will consider essential elements of the participation of internally displaced persons, identify barriers, and propose measures to promote inclusive participation by internally displaced persons in decisions affecting them.

[14] See www.brookings.edu/wp-content/uploads/2016/06/10_internal_displacement.pdf.

52. On 25 January 2017, the Special Rapporteur began consultations on this issue by convening an expert discussion on the participation of internally displaced persons, with relevant United Nations and international NGO partners active on this issue. This served to further her understanding of the issues and challenges and allowed her to obtain the views of key partners and consider positive practices. She will continue to seek positive examples from all regions that she can promote for possible use in other displacement situations. Furthermore, the Special Rapporteur recognizes that international advocacy efforts to promote the rights of internally displaced persons benefit from the actual participation of internally displaced persons. However, internally displaced persons are rarely present in such forums, and she will encourage and advocate for their participation in such regional and international events.

B. Ensuring the inclusion of internally displaced persons in transitional justice processes

53. To fully achieve durable solutions for internally displaced persons, they must receive justice for the harm done to them, the human rights violations and the loss of life and property, through processes that go beyond their physical return, local integration or resettlement. The Framework on Durable Solutions for Internally Displaced Persons recognizes that "this may entail the right to reparation, justice, truth and closure for past injustices through transitional justice or other appropriate measures", and that "internally displaced persons who have been victims of violations of international human rights or humanitarian law, including arbitrary displacement, must have full and non-discriminatory access to effective remedies and access to justice, including, where appropriate, access to existing transitional justice mechanisms, reparations and information on the causes of violations".[15]

54. In numerous internal displacement situations, internally displaced persons do not obtain justice or achieve only partial redress or reparations for the human rights violations that they have suffered, including for loss of housing, land or property. A first challenge will be to address the absence of any transitional justice mechanisms in some post-conflict situations, where such mechanisms are essential to achieve redress for internally displaced persons and other affected populations. Even where such mechanisms exist, fully incorporating internally displaced persons' issues is often perceived as complex and costly. Transitional justice processes have traditionally addressed a too narrow range of the serious civil and political rights violations while relatively neglecting internally displaced persons.

55. Truth commissions and criminal prosecution of perpetrators also form key elements of transitional justice. The experience of forced displacement often encompasses massive human rights abuses, prior to, during and in the aftermath of the displacement, the legacy of which continues while persons remain in displacement and even after they have achieved physical return, resettlement or integration elsewhere. Internally displaced persons must be included in community reconciliation and social cohesion projects, which form important elements of peacebuilding initiatives and from which they are frequently excluded. The understanding that internally displaced persons have the right to participate fully in transitional justice mechanisms and peacebuilding processes must be reinforced, as must the responsibility of governments to guarantee their participation and to ensure that transitional justice is achieved for them in practice.

56. The Special Rapporteur recognizes the important work already undertaken, including research and case studies conducted by the International Center for Transitional Justice and the Brookings-LSE Project on Internal Displacement, among other contributions.[16] Equally, international standards, such as the principles on housing and

[15] See www.unhcr.org/50f94cd49.pdf.

[16] The former Special Rapporteur held joint sessions with the truth, justice and reconciliation commissions in Kenya and Côte d'Ivoire to hear testimonies from internally displaced persons during his official missions, in September 2011 and July 2012 respectively.

property restitution for refugees and displaced persons[17] and the related *Handbook on Housing and Property Restitution for Refugees and Displaced Persons*, deliver valuable guidance relating to specific areas of concern. This provides strong foundations for further development, with the objective of operationalizing existing resources and providing technical assistance for their implementation. The Special Rapporteur will collaborate with United Nations bodies and other international organizations, NGOs and national human rights institutions to make progress in this regard.

57. The Special Rapporteur on the human rights of internally displaced persons has sought a strategic collaboration with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. Upon the invitation of the latter, the Special Rapporteur on the human rights of internally displaced persons participated in the OHCHR regional consultations on transitional justice in the Asia-Pacific region, held on 9 and 10 November 2016 in Colombo. She will engage in dialogue with governments undergoing transitional justice and peace processes to promote the inclusion of internally displaced persons and to learn about those governments' experiences, challenges and practices. She will seek to conduct visits to countries relevant to this thematic focus, and to date has issued visit requests to Colombia and Nepal. She will use her mandate to gather positive practices, guidelines and case studies on the issues and will establish a section of her website dedicated to these issues. Her work on this issue will be ongoing, and she will devote a thematic report to the issue.

C. Improving protection of internally displaced children

58. While much attention has been given to internally displaced children by key international humanitarian and development actors, it is evident that their situation and protection remains a considerable concern in displacement situations worldwide. Country visits undertaken by previous mandate holders, and the reports of other organizations, reveal evidence of children facing neglect and human rights violations, including violence and forced recruitment. In too many displacement situations, children are suffering and dying due to the failure of States to respond rapidly and appropriately to their specific needs and due to the lack of capacity and resources for humanitarian actors to fill the protection gaps. The challenges require renewed attention by States and humanitarian partners, with a focus on concrete outcomes, as highlighted at the High Commissioner's Dialogue on Protection Challenges, in 2016, the theme of which was Children on the Move.[18]

59. Children make up the majority of those displaced by conflict and frequently bear the brunt of the suffering it causes. The United Nations has emphasized that over 30 million children are displaced by conflict.[19] The term "lost generation" often applies, appropriately, to children whose lives are devastated by conflict and displacement. Their futures and opportunities are too often stunted, either by injury, trauma or malnutrition, or by the abuse and violations inflicted by combatants, traffickers or other perpetrators who have the power to abuse them. Their futures are also damaged by their exclusion from education for months or years on end, or by child labour which robs them of their education and childhoods as they support families in poverty. The challenges are particularly acute for orphans, unaccompanied children, children who are living with disability, injury or trauma, and children who head households due to conflict.

60. Under paragraph 16 (d) of Human Rights Council resolution 32/11, the mandate holder is tasked with giving special consideration to the human rights of internally displaced women and children, and of other groups with special needs, such as older persons, persons with disabilities and severely traumatized individuals, and to their particular assistance, protection and development needs. The Special Rapporteur will therefore dedicate a thematic report to the needs and protection issues facing internally displaced children, with a view to bringing renewed attention to their plight and in order to

[17] See https://2001-2009.state.gov/documents/organization/99774.pdf.
[18] See www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2016.html.
[19] See https://www.un.org/news/2015/june/30-million-children-displaced-/.

seek innovative approaches, concrete actions, and new commitments to their protection in displacement-affected countries.

61. The Special Rapporteur will promote the international normative framework for the protection of children, and the responsibility of States as the primary duty holders, to protect internally displaced children and address their needs. She will collaborate with key international and national partners, assisting them to strengthen their work, including UNICEF and UNHCR, with which she will seek strategic partnerships on this issue. While excellent resources exist, there must be better awareness of them, and technical assistance to implement them in practice. Positive practices should be identified and applied elsewhere where displaced children are at risk. Initiatives to protect girls, particularly in conflict situations, should also be brought into focus and better deployed, as a matter of urgency.

62. The Special Rapporteur will gather positive practices, guidelines and case studies, and will dedicate a section of her website to these issues in order to share relevant information from a wide range of sources. She will seek collaboration with relevant parts of the United Nations system, and with other international organizations and NGOs as well as national human rights institutions. On the basis of the information received, she will communicate to States issues of concern relating to displaced children and will seek a constructive dialogue with States that is aimed at finding rapid and effective solutions to situations of concern involving displaced children.

D. Enhancing the role of national human rights institutions in the protection of internally displaced persons

63. Human rights violations frequently precede or trigger displacement and occur during or after displacement. As independent human rights bodies and monitors of human rights situations, national human rights institutions have a critical role in protection of internally displaced persons. There are several examples of countries, including Kenya, Mexico, Nigeria, the Philippines, Uganda and Ukraine, whose national human rights institutions have played prominent roles in protection of internally displaced persons. Those roles have included advocacy and awareness-raising, training for officials and others in international human rights and humanitarian law and standards, monitoring of the rights of internally displaced persons, registration of individual complaints and investigation of specific cases so that perpetrators are held accountable. Their role in advocacy for domestic legislation to protect the rights of internally displaced persons should also be mentioned.

64. The Special Rapporteur will strengthen the mandate's engagement with national human rights institutions regarding protection of internally displaced persons, will engage in a systematic way with them and their regional networks to benefit from their experiences, practices and lessons learned, and will seek opportunities to enhance cooperation. She will dedicate one of her thematic reports to elaborating the role of national human rights institutions in the protection of internally displaced persons, and to this end she intends to hold a consultative session with selected national human rights institutions during her tenure to examine their existing and potential roles. In addition, she intends to send a questionnaire to relevant national human rights institutions and to seek to collaborate with the Global Alliance of National Human Rights Institutions in this regard.

E. Increasing the attention to neglected drivers of internal displacement

65. The Special Rapporteur recognizes the mandate's responsibility to raise awareness of — and support action to prevent or address — neglected causes of displacement, and to raise awareness about populations of internally displaced persons who require greater visibility and attention. These drivers include development projects and generalized violence, and may also include complex and interlinked causes, such as the intersection between conflict, development and business interests. The number of people internally displaced by such factors may run to millions worldwide, who do not feature in the annual displacement figures as these commonly reflect only persons who have been internally displaced by conflict and disasters.

66. Other factors also require greater attention, including the role of discrimination on ethnic or religious grounds as a cause of displacement and a factor affecting the responses provided to some internally displaced persons. In this regard, the Special Rapporteur participated as an expert panellist in the ninth Forum on Minority Issues, the theme for which was minorities in situations of humanitarian crises, held in Geneva on 24 and 25 November 2016.[20] She emphasized that ethnic or religious identity could be a factor increasing the vulnerability of some communities to displacement, and she contributed to a series of recommendations.

1. Development-induced displacement

67. The Guiding Principles on Internal Displacement establish that the prohibition of arbitrary displacement includes displacement "in cases of large-scale development projects, which are not justified by compelling and overriding public interests" (principle No. 6). While recognizing the significant benefits that development projects often bring to societies more widely, especially those in less developed countries, questions remain as to the appropriate criteria and parameters to be applied in cases where development could lead to internal displacement. The Special Rapporteur will consult with global and national development actors, including United Nations bodies and agencies, and other stakeholders, with the objective of clarifying the practices employed and the criteria applied at all phases of development processes.

68. While relevant guidelines, including the 2007 basic principles and guidelines on development-based evictions and displacement,[21] provide guidance in addressing the human rights implications of development-linked displacement, further understanding of these issues is required in order to ensure that those at risk of internal displacement and those who are displaced by development are protected in conformity with all relevant international laws and standards. The Special Rapporteur will devote a thematic report to this issue and will elaborate a set of recommendations, as well as promoting the implementation of positive practices and processes that should be applied to development projects.

2. Generalized violence-induced displacement

69. Situations of generalized violence do not constitute conflict but may have a similar impact on those forced to leave their homes. Greater research is required to reveal the full extent of the problem and its impact on individuals, families and communities. As highlighted by the former Special Rapporteur, governments may not acknowledge violence-induced displacement as triggering their obligations to protect the affected persons as internally displaced persons under international law and standards, including the Guiding Principles on Internal Displacement. Equally, those affected may not know or claim their rights to protection as internally displaced persons and may in fact seek anonymity due to threats and the risk of violence, making them hard to identify and reach with assistance.

70. The Special Rapporteur will seek to continue her engagement with countries where generalized violence is the cause of internal displacement. In particular, the Special Rapporteur seeks to continue the mandate's support to Honduras, visited by the former Special Rapporteur in 2015 and 2016, to examine the situation of violence-related internal displacement, and to maintain her support for the Government in its work to protect internally displaced persons, including through the adoption of a law on internally displaced persons. Furthermore, she thanks the Government of El Salvador and the Government of Guatemala for their positive responses to her requests for official visits to those countries, and will conduct an official visit to El Salvador in the second half of 2017 and to Guatemala in 2019.

[20] See www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session9.aspx.

[21] See www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf.

V. Conclusions

71. The picture of internal displacement and the plight of internally displaced persons globally have offered little positive news in recent years. Massive and ongoing conflicts and displacement crises remain unresolved, and some have worsened or become entrenched. New conflicts have emerged and disasters struck, causing internal displacement numbers to rise relentlessly to record levels, which puts new pressure on an already overstretched international system of humanitarian response. Where conflicts have abated, internally displaced persons often do not achieve durable solutions for years after their displacement, if at all. The protracted nature of some conflicts and internal displacement all too often results in protracted humanitarian responses that fail to progress to recovery phases and towards durable solutions for internally displaced persons. In some cases, donor fatigue results in fewer resources being available to address expanding and complex caseloads of internally displaced persons.

72. Indeed, the numbers of internally displaced persons globally are in fact likely to be significantly higher than those publicly stated by the United Nations and other international organizations, which only take into account the available data on conflict-induced and disaster-induced displacement. It is estimated that millions more are displaced annually by other causes and drivers of displacement, including development projects and generalized violence. It must also be recognized that there is a need for greater research and more data on internal displacement as a result of slow-onset disasters and climate change, in order to reveal the current and future internal displacement trends and to better meet these challenges. The Special Rapporteur will continue to raise awareness of these neglected areas of internal displacement concern, as well as to advocate for national and international action to protect the human rights of persons who have been internally displaced as a result of all causes of displacement.

73. Confronted by the reality of record numbers of internally displaced persons, it is vital for the international community to maintain and intensify its generous efforts to meet the needs and protect the rights of internally displaced persons and to begin to reverse the global trends. The vision laid out at the World Humanitarian Summit for new approaches to humanitarian action is welcome and provides a positive direction of travel that stakeholders should adopt. The focus on internally displaced persons is necessary and timely, and a global target to reduce internal displacement by 50 per cent by 2030 in a safe and dignified manner provides an ambitious yet necessary stimulus. Moving from principles to action will be a difficult task ahead in order to meet this goal. This must be achieved in compliance with human rights law and through the implementation of international standards for the protection of internally displaced persons and the achievement of durable solutions.

74. As those with primary responsibility, States affected by internal displacement must recognize and better adhere to their commitments under international human rights and humanitarian law and standards, firstly to prevent internal displacement, and to respond better when displacement occurs. Where possible, shifting the focus back towards the primary responsibility of States at all phases of displacement is necessary and will allow international humanitarian partners to more rapidly move on from protracted humanitarian assistance programmes. This will allow them to focus on new, critical displacement situations in which States are unable to respond effectively, as well to undertake more strategic resilience-building and recovery activities alongside development partners.

75. The work of the mandate of the Special Rapporteur and her engagement with national governments will be stepped up to assist States and other stakeholders in their efforts to meet their obligations towards internally displaced persons. As the international community brings its attention much more to large-scale movements of people across international borders, through the development of global compacts on safe, orderly and regular migration and on refugees, the Special Rapporteur urges enhanced attention to the situation of internally displaced persons, recognizing that

many who have crossed international borders as refugees or undocumented or trafficked migrants have initially been internally displaced in their own countries. Many have not been provided with the necessary protection and support allowing them to remain in their own countries if they so wish.

76. **The Special Rapporteur will continue to address the most critical situations regarding the internal displacement of persons, in all regions, and to promote durable solutions and advocate for the adoption of regional and national normative frameworks. In addition, she will bring new attention to other important internal displacement issues, including: strengthening the participation of internally displaced persons in responses to internal displacement; ensuring the inclusion of internally displaced persons in transitional justice processes; improving the protection of internally displaced children; enhancing the role of national human rights institutions in the protection of internally displaced persons; and providing increased attention to neglected drivers of internal displacement, including development-induced displacement and displacement as a result of generalized violence.**

United Nations A/HRC/35/27/Add.1

General Assembly

Distr.: General
12 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Nigeria

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, on his mission to Nigeria from 23 to 26 August 2016.

The insurgency by Jama'atu Ahlus-Sunna Lidda'Awati Wal Jihad (Boko Haram) in north-east Nigeria and the Government's counter-insurgency operations have killed thousands of civilians and led to the internal displacement of over 2 million people, the vast majority in Borno State. The terror campaign by Boko Haram has led to the utter destruction of towns and villages and the homes and livelihoods of affected populations. As areas have been recovered following offensives by Nigerian security forces and the Multinational Joint Task Force, the full extent of the human suffering and humanitarian crisis has been revealed, with severe levels of malnutrition and food insecurity threatening the lives of tens of thousands, particularly children. Although the Nigerian security forces have made significant gains, Boko Haram remains a menacing presence causing further displacement, hampering safe returns and severely impeding humanitarian access.

In December 2016, the situation in the north-east was described by the United Nations as the largest humanitarian crisis in Africa. Urgent action is required to save lives in the short-term emergency phase, and to begin the difficult process of recovery. Ensuring access by humanitarian partners and that urgent food, shelter, medical care, water and sanitation and other essential services reach internally displaced persons and others in need without delay must be the highest priority. Equally, ensuring the protection of vulnerable internally displaced persons, many traumatized by violence, fear, starvation and displacement, must be a paramount concern. Evidence of widespread human rights violations in the north-east by non-State armed groups and State actors means that the situation must also be recognized as a human rights crisis.

Camps for internally displaced persons have been targeted by Boko Haram, and many such persons have been killed as a result of military operations. Internally displaced persons are highly vulnerable and a high percentage of them are women and children. Urgent action is needed to address an epidemic of exploitation and abuse. Camps for internally displaced persons must be places of safety, yet sexual exploitation and sexual violence, including demands for transactional sex to access food and non-food items are

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commonplace. The risks of human rights violations have been exacerbated by a lack of adequate assistance to internally displaced persons in host communities and camps. The whereabouts of thousands of displaced men and boys remains unclear. Thousands have been killed by Boko Haram or in the context of the counter-insurgency. Many others are detained and must be treated according to international standards. Initiatives to identify the missing and dead should be strengthened.

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Nigeria*

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* Circulated in the language of submission only.

I. Introduction

1. In accordance with his mandate under Human Rights Council resolution 32/11, the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, visited Nigeria from 23 to 26 August 2016 at the invitation of the Federal Government of Nigeria.[1] During his visit, the Special Rapporteur travelled to Abuja, the capital, and to Maiduguri in Borno State, recognized as being at the epicentre of the insurgency by Jama'atu Ahlus-Sunna Lidda'Awati Wal Jihad (Boko Haram) since 2009, which has caused conflict and mass displacement.

2. The objective of the Special Rapporteur's visit was to consult with senior government officials, including those responsible for displacement responses and the military, and other key national and international stakeholders on the main issues concerning internal displacement. He sought to consult on ongoing challenges that Nigeria and its national and international humanitarian and development partners face with regard to internally displaced persons and assistance to them, and to identify humanitarian, human rights and protection concerns facing them and host communities.

3. The Special Rapporteur thanks the Government of Nigeria for its invitation and its cooperation, which he hopes constitutes the beginning of a constructive engagement with the mandate. He also thanks the representatives of the government of Borno State. He is grateful to the United Nations country team, particularly the Office of the United Nations High Commissioner for Refugees (UNHCR), for their support in ensuring the success of his visit. He thanks all other national and international bodies, institutions and individuals he met and who provided valuable information for his visit and analysis.

4. In Maiduguri, the Special Rapporteur consulted with Borno State officials, United Nations agencies, non-governmental organizations (NGOs) and other members of the humanitarian community. He visited several camps for internally displaced persons in the vicinity of Maiduguri to consult with them and those providing assistance to them, and to learn about their situation, needs, protection concerns and expectations. He sought information on the situation of host communities with whom the majority of internally displaced persons are living. He regrets that he was unable to visit camps in remote and newly recovered areas outside Maiduguri where conditions are of particular concern due to the security situation and other access restrictions.

5. The Special Rapporteur was unable to verify some of the allegations contained in the present report due to time and access limitations, and therefore makes no judgment as to the facts in such cases. Nevertheless, he considers the sources to be credible and includes unverified allegations in order to bring them to the attention of the national authorities responsible for investigating and prosecuting human rights violations by State or non-State actors. Some allegations are based on the testimony of individuals who wish to remain anonymous.

6. Other internal displacement situations exist in Nigeria, including due to intercommunal clashes, environmental issues and flooding, and require ongoing attention. The insurgency in the north has particularly affected the livelihoods of pastoralist groups, squeezing them out of grazing areas and trade. That has led to regular tensions between pastoralists and agriculturalists over land and resources. The Special Rapporteur underlines the need for the authorities to establish mechanisms to address the underlying causes of all displacement in the country and to respond to the needs of all internally displaced persons. However, due to the urgent and evolving situation in the north-east, his visit focused on that critical internal displacement situation.

[1] Chaloka Beyani completed his term as Special Rapporteur on 31 October 2016. Cecilia Jimenez-Damary was appointed Special Rapporteur on the human rights of internally displaced persons by the Human Rights Council in September 2016 and assumed the mandate on 1 November 2016.

II. Context of internal displacement

7. The militant Islamic terrorist group known as Boko Haram, loosely translated from the local Hausa language as "Western education is forbidden",[2] emerged in Maiduguri in 2002, promoting an extreme version of Islam under which Muslims are forbidden to take part in activities associated with Western society, and with the goal of establishing a Muslim state or caliphate. Its early activities included denouncing Western influence and corruption among government officials and the police, and recruiting young people in the economically deprived north-east, many of whom were unemployed. It became increasingly militant in character and violent, resulting in a police operation in 2009 in which several members were arrested.

8. That operation resulted in rioting and retaliation by Boko Haram supporters and marked a significant escalation in tensions, leading to the establishment of a joint military task force operation. Hundreds were subsequently killed in clashes with the security forces. Boko Haram's leader, Mohammed Yusuf, was arrested and killed while in detention. That marked the beginning of a campaign of violence under which police stations, government offices, prisons, schools and churches were targets of violent attack. Under a new leader, Abubakar Shekau, killings and bomb attacks were frequent and hit targets in other regions, including the United Nations headquarters in Abuja in August 2011, in which 11 United Nations staff members and 12 others died.

9. In May 2013, a state of emergency was declared across the north-eastern states of Adamawa, Borno and Yobe. Boko Haram changed tactics and took effective control of numerous local government areas. Hundreds of thousands in territories under its control fled in fear for their lives or due to the destruction inflicted. In January 2015, the Government launched a major offensive with forces from Cameroon, Chad and Niger. Throughout 2015 it regained territories, causing militants to retreat to forest strongholds. While the military recovered key urban areas in local government areas and supply routes, many areas outside the capitals of those areas remained susceptible to Boko Haram attack. Boko Haram reverted to terror tactics, using improvised explosive devises, suicide bombs and raids on villages.

10. In mid-2015, the offensive to recover territories began to push Boko Haram further into rural areas, resulting in another wave of large-scale displacement of the civilian population in rural areas, which was displaced to military-run camps in or near army barracks in Bama, Banki, Benisheik, Bui, Damboa, Dikwa, Gambaru, Gwoza, Monguno and Ngala. Hundreds of thousands of people were displaced to areas under government control, often on the instruction of the liberating forces and in what some described as part of a population "clearance operation". Violence forced more than 736,000 people from their homes in Nigeria in 2015 alone, more than in any other African country.[3] Lacking humanitarian assistance, the condition of those in camps frequently deteriorated and malnutrition rates increased. However, the full gravity and extent of the crisis began to come to light only in 2016 as humanitarian actors gained access to sites where internally displaced persons were living.

11. The civilian population has borne the brunt of the insurgency and conflict. More than 20,000 people have been killed and, at the time of the Special Rapporteur's visit, according to the data available, there were more than 2.2 million persons in the country who had been internally displaced as a result of the conflict with Boko Haram, 1.4 million of them in Borno State. Some 186,000 took refuge in neighbouring Cameroon, Chad and Niger.[4] As of August 2016, the National Emergency Management Agency has been

[2] The official name in Arabic, Jama'atu Ahlus-Sunna Lidda'Awati Wal Jihad, means "people committed to the propagation of the Prophet's teachings and jihad".

[3] See http://internal-displacement.org/assets/publications/2016/2016-Africa-Report/20161209-IDMC-Africa-report-web-en.pdf.

[4] At the time of the visit, 106,000 Nigerians had returned to Nigeria, some under conditions that did not meet international standards. The Government and its humanitarian partners had started developing a tripartite arrangement to facilitate the return of Nigerian refugees. The Lake Chad Basin Regional

managing 15 official camps for internally displaced persons in the newly recovered and accessible areas around Borno State, containing over 300,000 such persons. There are several other non-official camps and camp-like settlements in Adamawa and Borno.

12. One humanitarian official described Maiduguri as a city of internally displaced persons in which they are "present in every corner" and placing a huge strain on the city's services. At the time of the Special Rapporteur's visit, some 640,000 internally displaced persons were estimated to be located within the Maiduguri city area in organized camps, with host communities or in informal settlements. Authorities located internally displaced persons in camps around the city and in State housing projects, national youth centres and schools, in order to avoid makeshift shelters and camps emerging. Some small camps around the city had swelled over the weeks to hold tens of thousands of internally displaced persons. Nevertheless some 81 per cent of them were living with host communities and sources noted that there was no coordinated or coherent out-of-camp humanitarian strategy in place.

13. Boko Haram completely destroyed many areas and villages it occupied and burned homes, public buildings and infrastructure, including in the towns of Baga, Bama, Dikwa and Gwoza. Some internally displaced persons from Maiduguri have "returned" to local government area capitals and urban centres. However, sources indicated that those returns were neither entirely safe nor sustainable. Return to places of origin will therefore take time and require significant reconstruction and support, while Boko Haram remains active in numerous areas and continues to pose a significant security threat.

14. The root causes of the crisis include economic neglect, poor education, social inequality, deficits in good governance, unemployment, the effects of climate change, particularly in the Lake Chad Basin, poverty and deprivation in the region, which have been factors in the rise of radicalization. Combating the underlying structural issues will be essential to future stability and to preventing reoccurrence of the crisis. Some interviewees noted that the extent of the influence of Boko Haram in the underdeveloped region was such that a military solution would be difficult to achieve. Broader development of the north-east alongside long-term deradicalization, prevention of violent extremisms, demobilization and reintegration programmes will therefore be critical.

III. National legal, policy and institutional responses

15. Numerous government institutions have been assigned roles in addressing the needs and protection of internally displaced persons at both the federal and state levels and are responding to the extent of their limited resources and capacity. Key among them are the National Emergency Management Agency and its state counterparts, the State Emergency Management Agencies, which have been at the forefront of the Government's humanitarian crisis response and in the provision and delivery of food and non-food items, in collaboration with their national and international partners. In addition, bodies including the National Commission for Refugees, Migrants and Internally Displaced Persons and the National Human Rights Commission have contributed to responses. The Presidential Initiative for the North-east was set up in November 2014 to support reconstruction, recovery and economic development.

16. An interministerial task force and a high-level humanitarian coordination group, as well as the Borno State Humanitarian Response Committee, have also been established to assist in response coordination. Borno State has established the state-level Ministry of Rehabilitation, Reconstruction and Resettlement to support the construction of shelters and implement other recovery projects, particularly in the newly recovered areas. The Adamawa State government has also established a committee on return and durable solutions. At the federal level, the Ministry of Women and Social Development has been

Protection Dialogue, held in June 2016, resulted in actionable recommendations including on the protection of internally displaced persons and refugees.

involved in responding to the particular needs of internally displaced women and girls, and other ministries continue to contribute sectoral responses.

17. Essential elements of an effective national response are absent, notably legislative and policy frameworks on internal displacement that are in accordance with international standards, including the 1998 Guiding Principles on Internal Displacement and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention). They are urgently required to guide and inform responses and establish the rights of internally displaced persons and the obligations of the national authorities in domestic law. Such legislative and policy frameworks would have a crucial role to establish guidelines on interventions for recovery and durable solutions, to create much-needed clarity regarding the roles and responsibilities of different bodies and agencies and to ensure coordination, as well as establishing and guaranteeing budgets for humanitarian and development initiatives. Existing laws and policies, including the bill establishing the National Emergency Management Agency, are not sufficient to address the challenges facing internally displaced persons.

18. The Government of Nigeria was an active participant in shaping the 2009 Kampala Convention, and ratified it in 2012. The House of Peoples' Representatives has also established the first parliamentarian committee on internally displaced persons, refugees and the North-east Initiative. One of the requirements of States parties to the Convention is to domesticate its provisions into national law. A bill to domesticate the Convention was before the Parliament at the time of the Special Rapporteur's visit, but had yet to be passed into law. Equally, a draft policy on internally displaced persons, approved at the level of the Attorney General, has been in development for over 10 years without being adopted. However, the National Commission on Refugees, Migrants and Internally Displaced Persons has recently reactivated the process of reviewing the draft policy.

19. Gathering of baseline data and registration of internally displaced persons living in camps and host communities is being conducted by the International Organization for Migration (IOM) in collaboration with the National Emergency Management Agency and the State Emergency Management Agencies in Adamawa, Borno and Yobe States, with the aim of ensuring appropriate administration and distribution of assistance, including cash transfers. UNHCR and its partners have also conducted profiling of the most vulnerable internally displaced persons. It has partnered with the National Immigration Services to register returnee refugees. Information collected will contribute to the provision of a comprehensive profile of the internally displaced population to be shared with relevant stakeholders and contribute towards identifying the needs of the displaced and developing interventions for providing them with the necessary assistance.

20. While ongoing Displacement Tracking Matrix, vulnerability screening and protection assessments are commendable, the need for accurate and disaggregated data, including in return areas, remains acute. Without a consistent and reliable system of data collection, data varies from source to source. There is an urgent need to conduct detailed profiling and needs assessments of the most vulnerable internally displaced persons, both within and outside camps, and of those who are moving back to local government area capitals and urban centres, in order to identify the protection needs of, in particular, unaccompanied children, older persons, survivors of violence and abduction and persons with disabilities. Data gathering and analysis is especially vital in newly recovered areas where the needs are greatest.

21. According to IOM, the vast majority of internally displaced persons who have been registered live in host communities where little or no assistance had been provided. Digitization of registration will be an important step. The Special Rapporteur was informed that a persistent problem is that the majority of internally displaced persons lack personal identification documentation, which may have been lost or confiscated. Research has revealed that the problem is widespread among internally displaced persons and may hamper their registration, access to assistance and service provision and freedom of movement. The Government of Nigeria reportedly lowered the priority of the issue of documentation, however the Special Rapporteur emphasized the importance of replacing personal documentation as soon as possible, as well as ensuring that civil registration of

events such as births, marriages and deaths was completed and the relevant certificates provided systematically.

22. The military currently manages the security of sites for internally displaced persons in newly recovered areas and carries out the delivery of humanitarian assistance, partly due to the security environment and the absence of other humanitarian partners in conflict affected areas. It is consequently assisting in the provision of essential assistance and providing basic service functions, including education facilities. While military commanders stated that security forces are not involved in camp administration, they fill gaps where needed alongside their role in security and information gathering. The Special Rapporteur emphasized that camps for internally displaced persons should always be of civilian character and that a swift transition to civilian administration was essential. There is a civil-military coordination mechanism supporting exchange of information between the military and humanitarian actors.

23. Government officials stated that Nigeria lacked experience of a humanitarian and displacement crisis of the current scale. Humanitarian partners described government-led responses as too little too late, while existing institutional bodies were described as ad hoc, fragmented, lacking coordination and demonstrating institutional rivalry. One described the National Emergency Management Agency as "called upon to do everything, but stretched too thin". One official noted that the Agency had not received additional resources to respond to the humanitarian crisis. That view was widely shared by state-level actors, who often felt ignored and lacked involvement in the activities of the Presidential Committee on North-east Interventions and other federal initiatives. Numerous stakeholders stated that greater coordination and clarity regarding roles was required across institutions and in their partnerships with other national and international partners.

24. Allegations of fraud and misappropriation of funds had been made against the Presidential Initiative for the North-east, leading to an inquiry by a Senate ad hoc committee.[5] Allegations had been reported of officials and camp authorities diverting and selling food and non-food items including medicines, toiletries and bedding meant for internally displaced persons. The Special Rapporteur was also informed of instances in which registration cards issued to internally displaced persons had been confiscated and sold to others or used as leverage for extortion or abuse. All such allegations should be fully and independently investigated and, if shown to be true, those responsible prosecuted to ensure confidence, including among the international donor community, that all funds were properly allocated and accounted for.

IV. Humanitarian challenges

25. The situation in the north-east is the highest category crisis. Reportedly, nearly 7 million people were in need of humanitarian assistance in the aftermath of the insurgency in the three most affected states.[6] In October 2016, the United Nations Deputy Humanitarian Coordinator and Humanitarian Coordinator ad interim warned that Nigeria was facing the worst humanitarian crisis on the African continent.[7] United Nations estimates suggested that nearly 400,000 children were facing starvation if they did not receive urgent access to therapeutic feeding, while many thousands of citizens had little or no access to clean water, health-care assistance, protection, education or food security. The Government was slow to respond to the crisis and to call for assistance from the international community and consequently, the United Nations and international partners have been delayed in scaling up their responses.

26. Some United Nations agencies, including UNHCR, have categorized the crisis internally as the highest possible level of crisis (L3), which requires a higher level of funding and resources to be directed towards the situation. That is an important

[5] See http://allafrica.com/stories/201612070143.html.

[6] See www.unocha.org/nigeria/about-ocha-nigeria/about-crisis.

[7] http://reliefweb.int/sites/reliefweb.int/files/resources/tqa_press_release_dhc_hc_ai_statement_25102016.pdf.

acknowledgment of the gravity of the situation and many are urging a general L3 designation. Having consulted widely and witnessed the challenges facing the Government and the humanitarian community, the Special Rapporteur endorsed that call. At the time of the Special Rapporteur's visit, a decision had been taken to activate seven humanitarian clusters in order to better coordinate the humanitarian response.

A. Humanitarian access

27. While as of August 2016, some 4 million people were thought to be accessible to some extent, that access, especially by international humanitarian actors, was extremely limited in some locations and reliant on helicopters with limited delivery capacity. Humanitarian actors remained concentrated in Maiduguri due to the restricted operational environment or security concerns. Following the Special Rapporteur's visit, some improvements were reportedly made, including the establishment of field-based humanitarian hubs in recovered areas, particularly in Borno State, and of a solutions strategy aimed at supporting humanitarian and development actors.[9] Nevertheless, it is vital to establish a stronger humanitarian presence in newly recovered areas and to secure supply routes. Moreover, humanitarian actors must establish effective partnerships with local actors who enjoy access to and the trust of communities.

28. The region continues to be a highly dangerous security environment in which road travel is frequently unsafe and humanitarian actors are at risk of attack. According to OCHA, over 80 per cent of Borno State was considered high or very high risk for international humanitarian actors, constraining access to desperately vulnerable communities. The dangers faced by humanitarian actors were made evident by United Nations staff who described a targeted ambush attempt on their convoy in July 2016, despite having a military escort.

29. Reports were received that some camps had not received assistance for up to six months. Restrictions were also being imposed on access to internally displaced persons for humanitarian and human rights actors who were not directly involved in the delivery of food, non-food items or other services, for example to conduct monitoring, needs assessments or protection functions. Travel and access restrictions were reportedly applied to NGOs and journalists wishing to visit locations where internally displaced persons were living. Some government officials also engaged in public rhetoric against international NGOs and United Nations humanitarian actors. Sources indicated that internally displaced persons were facing harassment or intimidation to prevent them speaking about their situations, alleged diversion of humanitarian supplies or human rights abuses. The following sections consider some of the most pressing humanitarian and protection challenges.

B. Food security and shelter

30. Following the recovery of numerous areas by security forces, 15 camps were established by the army to house internally displaced persons from those areas. The camps were referred to by some sources as "closed camps" and one said they were "like military internment camps". The camps were established for security reasons due to the conditions in the recovered areas that had been destroyed by Boko Haram and the levels of malnutrition and starvation among the civilian population. One army strategy was to cut supply lines to areas under Boko Haram control, but that had the greatest impact on civilians, who were left starving. Consequently, large areas were depopulated following their recovery, causing a large increase in the number of internally displaced persons. Shelter conditions in some locations are extremely basic and vast shelter needs were reported in order to protect internally displaced persons from the extreme temperatures and heavy rainfall.

[9] Initially, eight hubs will be located in Biama, Bama, Gwa, Damboa, Dikwa, Gambara Ngala, Gwoza and Monguno in Borno State. At least 12 are expected.

31. In July 2016, the World Food Programme, alarmed by the situation, issued a food security alert, stating that a famine could be occurring in the worst affected and less accessible pockets of Borno State and calling for a sharp increase in food assistance.[9] The food security requirements identified in the Nigerian 2016 Humanitarian Response Plan had been only 25 per cent funded by the end of October 2016. The Government downplayed the extent of the hunger and malnutrition crisis in late 2016, contradicting warnings from the United Nations. One source stated that internally displaced persons in some camps that were officially receiving food assistance were not receiving the minimum nutritional requirement and some were resorting to eating boiled leaves.

32. Internally displaced persons, including children, were reportedly dying of starvation on a daily basis in some camps that were difficult to reach by humanitarian actors. The United Nations stated in July 2016 that some 250,000 children may be suffering from severe and life-threatening malnutrition.[10] Even in camps for internally displaced persons around Maiduguri, where humanitarian access was good, demonstrations were held during the Special Rapporteur's visit to complain about poor provision of food. Internally displaced persons in over 20 camps around Maiduguri were left hungry due to shortages of supplies, with many surviving on only one basic meal a day. In April 2016, a joint United Nations assessment estimated that over 500,000 people required immediate food assistance in and around Maiduguri. A survey conducted in late May confirmed that roughly 60 per cent of internally displaced persons were malnourished. In June 2016, the United Nations Children's Fund (UNICEF) screened 3,230 children in the Muna camp for internally displaced persons near Maiduguri and found that 29 per cent of them were malnourished, 6 per cent severely.

33. According to the Famine Early Warning System Network, it was likely that famine had occurred in 2016 in the towns of Bama and Banki, and in other rural areas where conditions were similar. Some 2,000 famine-related deaths might have occurred in Bama local government area between January and September 2016. Assistance had since improved conditions in accessible areas, reducing mortality and the prevalence of acute malnutrition, although improvements were tenuous and depended on the continued delivery of assistance. Food assistance might be preventing famine in other areas with internally displaced persons. However, large areas of Borno State remained inaccessible to all civilian actors, including humanitarian partners, and given the severity of food insecurity observed in the adjacent areas that humanitarians could reach, it was possible that famine was ongoing in inaccessible parts of Borno State and millions of people were likely to remain severely food insecure.[11]

34. According to some commentators, the Government did not have the required food provisions in place to respond adequately to needs, which amounted to some 40,000 metric tons of food per month to cover only the existing camps for internally displaced persons. An underestimation of the extent of the crisis meant that supplies were initially insufficient to meet demand. The Government was also late to call for international assistance, with the World Food Programme receiving permission to operate in the region only in March 2016.

35. Over 100,000 people were benefiting from money received from the World Food Programme through a system that delivers credit to mobile phones, which can then be exchanged for food at markets. However, not everyone in need is covered by the scheme and the Special Rapporteur noted that care should be taken to ensure fairness and avoid creating tension, for example where members of host communities do not receive such cash assistance. The situation of host families and communities must be taken into account in view of their important and generous role in supporting the vast majority of internally displaced persons. The Special Rapporteur was informed that tensions were emerging as the duration of the displacement increased. Support to host communities must be a factor in all humanitarian responses.

[9] See http://documents.wfp.org/stellent/groups/public/documents/ena/wfp285255.pdf?_ga=1.58799403.761427966.1481126444.

[10] See www.unicef.org/media/media_91911.html.

[11] See www.fews.net/west-africa/nigeria/special-report/december-13-2016.

C. Access to health care, water and sanitation

36. Access to medical care is severely limited and medical facilities require urgent improvement. The greatest demand is in inaccessible and newly recovered areas and camps for internally displaced persons. As areas were recovered from Boko Haram, it became evident that the majority of health facilities had been damaged or destroyed and either ceased to function completely or continued to the best of their ability with few staff and medical supplies available. Many health-care workers fled or were killed or abducted. That left many in the north-east, including internally displaced persons, cut off from government services and with urgent and untreated health issues. Many have survived without adequate health-care provision for months on end. Many internally displaced persons, particularly women and children, require urgent treatment for malnutrition.

37. Women and children are particularly vulnerable and medical needs in general are high. Cramped and unhygienic conditions lead to communicable diseases and the health-care needs of many, including pregnant women and infants, were not being met. Some pregnant women reportedly had to walk several kilometres in searing heat to seek medical attention. United Nations staff noted high mortality rates in some camps. Due to the living conditions and the onset of the rainy season, medical providers were treating diarrhoea, malaria and respiratory infections, as well as malnourished children. New cases of poliomyelitis and outbreaks of measles were identified and the World Health Organization was conducting vaccination campaigns. Water, sanitation and hygiene infrastructure needs to be urgently rehabilitated in newly accessible local government areas to minimize waterborne diseases.

38. Many internally displaced persons are suffering from trauma due to the violence that prompted them to flee. The majority of internally displaced persons surveyed reported the presence of persons who had been released from abduction by Boko Haram. Some, including children, witnessed and suffered severe abuse or were forced to fight. Some described the killing of their parents and other family members in front of them. Women and girls were forcibly married to Boko Haram fighters and gave birth to babies from such unions. They require psychosocial support to deal with their trauma. However that support was largely absent at the time of the Special Rapporteur's visit, particularly in newly recovered areas and camps for internally displaced persons in those areas.

39. Reports indicated that there was a desperate need for hygiene kits for women and girls as there were few stocks or provision of items such as sanitary towels. In view of the reportedly high levels of sexual abuse, rape, survival sex and survival prostitution that have been reported in camps for internally displaced persons and other locations, the risk of the spread of HIV and other sexually transmitted diseases has increased and should be closely monitored. Equally, it is likely that some people with chronic illnesses, including HIV, diabetes and other conditions, have not been able to access essential medication for months and require urgent attention.

D. Education

40. An estimated 3 million children affected by the insurgency have been out of formal education for months or even years as schools were destroyed and teachers fled or were killed. While the region already lagged behind in terms of school enrolment and attendance, particularly for girls, hundreds of thousands of children have been denied access to safe learning spaces after 1,200 schools were destroyed by Boko Haram. Some people expressed fears of a lost generation of displaced or abducted children who have had little or no access to education.

41. In 106 sites for internally displaced persons accessed by IOM for the Displacement Tracking Matrix, 67 had facilities for formal or informal education. In 35 additional sites assessed, none of the children were attending school, while in a further 24 sites, less than 25 per cent of children were attending school. Nevertheless, for some children, camps for internally displaced persons provide their first access to any formal education in a considerable time. Internal displacement has led to overcrowding in schools in host

communities. Schools are also frequently used as shelters for internally displaced persons, which also has an impact on the access to education of those in host communities. Save the Children UK highlighted the fact that, by the end of October 2016, less than one fifth of a limited $23 million education appeal had been resourced.[12]

V. Protection challenges and responses

42. At the time of the Special Rapporteur's visit, the protection sector was only 12 per cent funded. While a series of vital protection assessments have been carried out, a deeper and ongoing understanding of the protection issues faced by internally displaced persons and other affected populations is needed. The Protection Sector Working Group in Nigeria conducted a rapid protection assessment in liberated local government areas in Borno State in May 2016,[13] as the security situation improved, which concluded that the protection crisis in Borno State remained severe, with a significant level of protection needs and risks unaddressed. Many internally displaced persons are reliant on humanitarian assistance, while lack of access to livelihoods and resources for those in camps and in host communities results in negative coping strategies among internally displaced persons and host communities, including exploitation and survival sex. The Special Rapporteur was informed of allegations that some internally displaced persons faced extortion in every phase of their displacement experience.

43. Some internally displaced persons would allegedly be required to pay to enter camps for internally displaced persons and to access shelters or materials. Sources reported that the military and the Civilian Joint Task Force exerted total control over internally displaced persons in some locations outside Maiduguri and that unchecked restrictions and lack of essential monitoring had created the conditions for widespread harassment, extortion, exploitation and abuse. It is vital that protection actors obtain access to all locations and strengthen their mechanism for systematic and effective protection monitoring with a view to supporting robust responses. Of particular concern are the protection challenges faced by the most vulnerable, including women and girls, unaccompanied children, older persons, persons with disabilities, and those who have been deeply traumatized by violence, brutality, starvation and displacement.

44. Numerous partners raised the role of the Civilian Joint Task Force in the humanitarian response as a particular cause for concern. The Civilian Joint Task Force had emerged as a volunteer militia and local-level response to Boko Haram and played an armed community defence role alongside, and frequently in the absence of, the Nigerian security forces. Some Task Force members had been absorbed into military structures and received basic training and salaries. With the recent offensives, some had found new roles in the humanitarian response, with members exercising authority and providing management functions in camps for internally displaced persons. The Special Rapporteur was concerned about their status and training, as partners described them as lacking the discipline and training of regular security forces. As such, they did not constitute a civilian administration and should be replaced as soon as possible.

45. The Special Rapporteur heard several allegations that members of the Task Force had been involved in abuse of internally displaced persons, including the sexual abuse of displaced women and girls. Other allegations included the arbitrary arrest, detention and execution of civilians, including internally displaced persons, in areas without civil authorities present. One interviewee stated that Task Force members would try to extort internally displaced persons with the threat that if they did not pay, they would be accused of membership of Boko Haram. One source stated that cells existed in some camps for internally displaced persons in which individuals could be held and beaten or deprived of

[12] Save the Children UK, "North East Nigeria: children's lives and futures at risk", p. 7. Available at www.savethechildren.org.uk/sites/default/files/images/North_East_Nigeria.pdf.

[13] See Protection Sector Working Group, Nigeria, and UNHCR, "Rapid protection assessment report: Borno State, Nigeria". Available at http://reliefweb.int/sites/reliefweb.int/files/resources/rapid_protection_assessment_report_pswg_borno_may_2016.pdf.

food and water for minor infractions or failure to comply with the military or the Task Force.

46. In half of the sites surveyed for the rapid protection assessment, internally displaced persons reported other physical violence in addition to sexual violence. There had been incidents resulting from tensions between persons who had been displaced from different ethnic groups or areas of origin. Fighting and physical violence occurred in the context of food distribution, often relating to food shortages. Tensions between internally displaced persons and host communities occurred in several locations as the duration of displacement increased, leading to pressure on communities for cash, food and space. Some internally displaced persons were reportedly told, "This is not your place, this is our place", and experienced difficulty accessing water sources. Reports were received of exploitation of internally displaced persons by host communities, including forced labour, early or forced marriage or sexual and gender-based violence, particularly against internally displaced persons who could not contribute financially.

47. In 11 of the 26 sites surveyed, internally displaced persons described discrimination in access to assistance, with majority populations favouring their own tribal group or those from their own local government area. Some elderly and disabled persons reported physical difficulties queueing for assistance or their exclusion from queues and they asked for separate facilities.

A. Violations against internally displaced women and girls

48. Many camps for internally displaced persons are the settings for sexual exploitation, survival sex and organized prostitution, as well as sexual harassment and rape. One source stated that "transactional sex is the only option that many households have". Women and girls are reportedly coerced into providing sex for food rations or moving outside camps. There is a high number of pregnancies, including among young girls, and forced or coerced early marriages are reportedly increasing to prevent social stigma relating to pregnancy outside of marriage. In camps visited by the Special Rapporteur, food distribution was under the authority of males, creating the conditions for sexual abuse due to scarcity of food.

49. A group of three Special Rapporteurs with mandates relating to health, children and slavery visited Maiduguri in January 2016 and found evidence of sexual abuse and other major protection concerns (see A/HRC/32/32/Add.2). Over six months later, the Special Rapporteur found no improvement in the situation. In a rapid protection assessment in camps in Borno State,[14] internally displaced persons reported sexual exploitation in 14 out of 26 sites. In nearly all camps surveyed, survival sex was reported by women and girls in exchange for food, permission to leave camps with restricted movement policies, and in exchange for money. One woman interviewed by protection monitors reported that half the women she knew had had to sleep with service providers in exchange for food assistance. Focus groups in some locations reported instances of rape and sexual abuse, often by those in authority, of women or girls going to bathe or collect water. Lack of lighting in bathing areas and their location away from safe areas reportedly made women and girls vulnerable.

50. The Special Rapporteur found that civil authorities and the military downplayed the issue of sexual abuse and the complicity of security and camp officials. One senior National Emergency Management Agency official stated that "it has never come to our knowledge" and described allegations as "maybe a cultural issue". Ministry of Justice officials at the federal and state levels noted that there were national laws in place to protect individuals, including the Violence Against Persons (Prohibition) Act, 2015. The Special Rapporteur emphasized that such laws and the existing complaint mechanisms were insufficient to protect displaced women and girls from violence or to achieve legal redress in the context of the crisis. Since his visit, members of the military and the police have reportedly been imprisoned on allegations of involvement in abuse and exploitation.

[14] See Protection Sector Working Group, Nigeria, and UNHCR, "Rapid protection assessment report: Borno State, Nigeria".

51. The vulnerability of women and girls to human rights violation has been exacerbated by a lack of adequate assistance to internally displaced persons in host communities and camps. Equally, in displacement environments where male family members are largely absent, the normal social fabric has broken down, leaving women and girls highly vulnerable. Violations are particularly prevalent in camps for internally displaced persons in newly liberated areas, where access by trained humanitarian actors remains difficult or restricted. The Special Rapporteur expressed the concern that sexual exploitation and violence constitute a hidden epidemic with fear, stigma and impunity for perpetrators leading to underreporting of abuse to the authorities.

52. The Protection Sector Working Group in Nigeria emphasized that, when camps for internally displaced persons were manned by military or paramilitary personnel, there was an "inevitable reduction of protection space".[15] Camps must quickly come under trained civilian management and community-based protection and camp management systems must be put in place, while security forces should provide guarantees of security in areas that remain at risk from Boko Haram or other security threats. Humanitarian partners stated that protection measures must be taken urgently and include ensuring that women have leadership, food distribution and camp management roles. Equally, measures must be put in place to ensure appropriate civilian authority, including improving human rights and humanitarian training of security forces and civilian authorities.

53. Forced displacement, detention and kidnapping of women and girls has been a feature of Boko Haram's violence, notably in the case of the abduction of the Chibok girls. Numerous other cases have been less widely reported; at least 2,000 women and girls were thought to have been kidnapped between January 2014 and April 2015.[16] Their plight has been one of rape and sexual violence, forced marriage to their captors and childbirth, or forced labour. Their trauma and stigmatization must not be underestimated and their immediate and long-term support and reintegration into families and communities must be a high priority. However, reports suggest that little assistance, including specialist psychosocial support is available for victims of sexual abuse, violence and other human rights violations, particularly for those outside camps.

B. Child rights and protection concerns

54. The challenges facing children are particularly acute and many have suffered or witnessed abuses under Boko Haram. At the time of the Special Rapporteur's visit, vulnerability screenings had identified some 20,000 unaccompanied and separated children. Research and estimates achieved through the IOM Displacement Tracking Matrix have established that some 54 per cent of the internally displaced persons are children under 18 years of age, with more than half being under 5 years old. A condition of residence in some camps for internally displaced persons has reportedly been the separation of boys from their mothers and siblings and their housing in accommodation for adult men, which may create protection concerns.

55. Many children have been killed, maimed and abducted by Boko Haram, which has recruited and used boys and girls for active hostilities, according to a September 2015 report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) into violations and abuses committed by the terror group (A/HRC/30/67). OHCHR and other human rights groups that interviewed children who have been freed or have escaped described most of them as deeply traumatized, having been forced to fight and experience sexual violence and exploitation, or having witnessed atrocities. Boko Haram systematically abducted children from towns and villages it captured or raided, including the alleged abduction of 300 children from Damasak near the border with Niger.

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[15] Protection Sector Working Group, Nigeria, and UNHCR, "Rapid protection assessment report: Borno State, Nigeria", p. 25.

[16] See Chitra Nagarajan, "Don't forget the girls kidnapped in Nigeria: they need help more than ever", *Guardian*, 16 February 2016. Available at www.theguardian.com/commentisfree/2016/feb/16/kidnapped-boko-haram-girls-women-nigeria.

56. One interviewee stated that, as there was no database, the Government did not know how many girls were still in the hands of Boko Haram. Others suggested that thousands of boys had been abducted or coerced into joining the militants and exposed to abuse or forced to fight. Those who escaped or were released are frequently displaced and unable to return to their homes. They face challenges reintegrating into families and communities due to stigmatization and discrimination. A government initiative entitled Operation Safe Corridor is aimed at deradicalizing and reintegrating former fighters into their communities. Some projects aimed at working to reunite separated families and children, including the Restoring Family Links programme conducted with the International Committee of the Red Cross and national partners, have successfully reunited hundreds of unaccompanied children with their relatives.[17] However, the levels and duration of psychosocial support remain inadequate or non-existent in most locations.

57. Credible reports highlight the fact that displaced children were detained during counter-terrorism operations, some for long periods. Some reports have alleged that young boys and some girls suspected of Boko Haram affiliation have been held in appalling conditions in detention facilities, including some 120 children held in Giwa Barracks in Maiduguri. An Amnesty International report alleges that between January and April 2016, 149 people, including 11 children and babies as young as 5 months old, died at the detention facility.[18] The Nigerian authorities deny those allegations. Equally, the well-being of children released from detention must be monitored, since they may be unaccompanied, severely traumatized and ill, and highly vulnerable. While legitimate security concerns exist, it must be recognized that children are victims of Boko Haram who require support and rehabilitation.

C. Detention and disappearances

58. A disturbing demographic picture is evident in camps for internally displaced persons, and the absence of young men of "fighting age" is a cause for concern. Many men and boys have disappeared and their whereabouts are unknown, while many others are reportedly held in detention. Some have been recruited by Boko Haram, while many thousands have reportedly been killed by the militants. One interviewee noted that Boko Haram sometimes killed males over their mid-twenties, while younger men were given the choice to join the group. Many men may have fled, fearing for their lives, either to other regions of Nigeria or across international borders due to the real threat posed to them by Boko Haram or their fear of detention by the security forces. One interviewee stated: "It's hard to be a young man here".

59. The Special Rapporteur was informed of the arrest and detention of suspected Boko Haram members, including from camps for internally displaced persons, sometimes for long periods. Persons leaving newly liberated areas, including women and children, were systematically detained and "screened" by security forces. The perception that internally displaced persons pose a security threat resulted in limitations to their freedom of movement. One interviewee noted that there was a reluctance to deal humanely with captives. The Special Rapporteur was informed that screening was non-transparent, had no legal basis, was conducted in poor detention conditions and that requests from international actors to monitor screenings were denied. Detention conditions were described as overcrowded and there was a lack of food, water and medical assistance. The Special Rapporteur emphasized that detention of internally displaced persons must be fully justified and conducted according to the law and international standards.

60. The Special Rapporteur consulted senior military commanders based in Maiduguri who were in charge of military operations in the north-east. He was informed that legitimate security concerns justified screening and information gathering within and around locations where internally displaced persons were living, in order to protect civilian communities, including internally displaced persons. Asked about the absence of men in the

[17] See www.icrc.org/en/document/nigeria-happy-ending-unlikely-violence-anxiety.

[18] See www.amnestyusa.org/research/reports/if-you-see-it-you-will-cry-life-and-death-in-giwa-barracks.

populations of internally displaced persons, the detention of individuals on security grounds was acknowledged, but the compliance of the security forces with international humanitarian and human rights law was emphasized. The military commander stated that younger men were the demographic that had joined Boko Haram, noting that it was "only natural" that young men would not be found in camps for internally displaced persons, since they would not want to be in such camps and would go elsewhere in the region or to other parts of the country.

61. There is an urgent need to clarify the whereabouts of thousands of young men in north-east Nigeria. The Government, with the support of international partners including the International Committee of the Red Cross, has initiated information and data collection on missing persons. The Special Rapporteur considers that such measures should be strengthened, including through outreach within populations of internally displaced persons, to record all cases of deceased and missing persons and to open cases. There should be a full and independent investigation into possible violations of international humanitarian and human rights law and possible war crimes and crimes against humanity. Any evidence, including mass graves or other sites that are identified, must be protected.

62. Freedom of movement has been restricted for internally displaced persons in some camps with implications for their ability to seek livelihood and income opportunities, leaving many totally reliant on assistance and compliance with the camp authorities, including the army and the Civilian Joint Task Force. Some reports indicated that internally displaced persons faced restrictions on entering Maiduguri, including refusal of passage through checkpoints without a national identity card or payment of extortion money or a fine. Moreover, internally displaced persons outside camps also reportedly faced movement restrictions and were required to pay fees in order to move freely. Other allegations suggested that internally displaced persons would sometimes be told to leave a camp in order for assistance to be diverted elsewhere.

63. The military commander in the region acknowledged restrictions on freedom of movement of internally displaced persons on security grounds, stating that it was not possible to let everyone from camps wander around the city and that the restrictions were for the good of the internally displaced persons who were given passes to go to the towns. The Special Rapporteur emphasizes that camps for internally displaced persons are not detention centres and internally displaced persons' right to freedom of movement and all their human rights must be respected, with proportionate security measures in place.

VI. Prospects and essential measures for return and durable solutions

64. Conditions in many areas recovered from Boko Haram are precarious and not conducive to the return of internally displaced persons and refugees due to insecurity, the destruction of infrastructure and homes and the absence of basic services, which pose acute humanitarian and protection risks. Agriculture and animal husbandry, on which many are dependent for livelihoods, have been severely disrupted.[19] Nevertheless, by August 2016 over 910,000 internally displaced persons had reportedly returned to their areas of origin, particularly in Adamawa State, many during the rainy season for farming purposes.[20] While the authorities were making arrangements for internally displaced persons to return towards their areas of origin, most internally displaced persons, particularly in Borno State, were being placed within local capitals, therefore remaining displaced. The Special Rapporteur emphasized that return should only take place voluntarily and in conditions of security, dignity and with appropriate information and guarantees of safety and support.

[19] The Special Rapporteur received unverified allegations that members of the military and the Civilian Joint Task Force were taking livestock, including from internally displaced persons, and selling them for profit elsewhere, to the extent that they controlled a large proportion of the cattle market. If true, that would have a dramatic effect on communities that relied on livestock for their livelihoods.

[20] IOM Nigeria, "Displacement Tracking Matrix: round 11 report", August 2016. Available at http://goo.gl/EXDeXC.

65. Even where return is possible, many no longer have a home to return to due to the destruction inflicted by Boko Haram. One humanitarian stated: "I drove for two hours without seeing a house standing". Massive investment in rebuilding infrastructure and housing is required. Return is also hampered by unexploded ordnance and booby traps intended to kill or maim. The National Human Rights Commission informed the Special Rapporteur that it had established an Inter-Agency Task Team to ensure voluntary and safe returns and was undertaking assessment visits. While return may be the favoured option for national and state Governments, for some internally displaced persons, local integration or settlement elsewhere may be the most viable and preferred choices. The views and wishes of internally displaced persons must be taken into account, including their right to choose durable solutions appropriate for them.

66. While saving lives remains the highest priority, greater attention to durable solutions and transitional steps are required at the earliest phase. National response bodies such as the National Emergency Management Agency lack capacity or experience and are geared towards emergency responses. Specialist development partners should be engaged at the earliest opportunity and development approaches integrated into the humanitarian phase as soon as possible to promote recovery, build resilience and re-establish livelihoods. At the time of the Special Rapporteur's visit, the early recovery sector had no funds available. Some positive initiatives are under way. The humanitarian country team has developed a durable solution framework in 2015 to promote engagement with humanitarians. Both in Adawama and Borno, the state governments have established committees on return and durable solutions. The Resident Coordinator, with the support of UNHCR and the United Nations Development Programme, is currently developing a return and solution strategy.

67. The Presidential Committee on North-east Interventions was inaugurated in October 2016 as a body charged with coordinating all interventions in the north-east, including those of public, private, national and international development partners. The Committee will be funded by government, private and international development sources for an initial three years and falls under the Presidency. It is responsible for developing the strategy and implementation framework for rebuilding the North-east region and communities ravaged by Boko Haram until a longer-term regional development framework is in place.[21]

VII. Role of the international community

68. The international community has a vital role to play in addressing and resolving the humanitarian crisis in north-east Nigeria. While Nigeria is considered to be a middle income country due to its oil and gas revenues, it is currently undergoing a period of intense economic challenges due to the fall in the oil price. Nevertheless, the extent of the crisis requires it to do better in terms of providing adequate national financial resources to meet the massive needs in the north-east. In December 2016, the United Nations Office for the Coordination of Humanitarian Affairs doubled its humanitarian funding appeal for north-east Nigeria to $1 billion required in 2017 in order to reach some 7 million people that it claims are in desperate need of assistance.

69. At this critical time, the international and donor communities are urged to provide necessary additional support to Nigeria as it confronts an insurgency and a humanitarian and displacement crisis that has regional and potentially global implications and consequences. The humanitarian response was only funded to some 38 per cent of 2016 estimated needs by the end of October 2016. The United Nations and other humanitarian and development partners are hampered in their essential efforts by the significant shortfall in funding across key sectors. Scaling up the response is essential to save lives in the short term, however resources must also be provided for the longer-term challenges of securing durable solutions beyond the emergency response phase.

[21] See http://breaking.com.ng/nigeria/buhari-inaugurates-presidential-committee-on-the-north-east-initiative/.

VIII. Conclusions and recommendations

A. Conclusions

70. **The efforts of the Government and its counterparts in Adamawa, Borno and Yobe States to address the internal displacement crisis in the north-east must be acknowledged and responses have improved. Nevertheless, the situation of internally displaced persons remains grave and responses must be stepped up and better coordinated to meet their urgent needs and those of host communities. The humanitarian crisis has been neglected and its extent significantly underestimated; it required earlier and greater attention from the Government. Credible evidence of widespread human rights violations against internally displaced persons and other members of the civilian population by non-State armed groups and State actors alike require recognition of the situation as a human rights crisis requiring urgent and ongoing measures to protect all civilians from violence and abuse.**

71. **While the responsibility to respond to the immediate and longer-term humanitarian needs and human rights of internally displaced persons lies primarily with the Government, it lacks the capacity, expertise and resources to tackle the displacement crisis alone. The crisis has triggered the establishment of numerous new initiatives and national bodies. They are welcomed, but they must have clear mandates and responsibilities, be coordinated, be funded in accordance with their functions, and be fully transparent and accountable for their actions and expenditure. As a middle income country, Nigeria is better placed than many nations to respond effectively to the current displacement crisis. However, to date resource allocation has been insufficient and assistance to internally displaced persons inadequate. International humanitarian partners are called upon to fill the immense gaps in the crisis response, although their own capacity is severely constrained by shortage of capacity, resources and funds. The international community must enhance its already generous support to the humanitarian community for its essential work.**

72. **While security measures are legitimate and necessary in the light of Boko Haram tactics, those measures must be proportionate and meet international standards, including for the treatment of detainees, particularly children. It is highly likely that men considered to be of fighting age are avoiding locations where internally displaced persons are living due to their fear of suspicion of being Boko Haram militants and the likelihood of detention. Allegations of mistreatment in detention by the security forces, while not verified and denied by authorities, have fuelled that concern. It must be recalled that the vast majority of internally displaced persons are innocent victims of the insurgency and counter-insurgency measures. While the security forces have human rights advisors within their ranks and conduct training, more must be done to ensure compliance with the law and to protect civilians.**

73. **The main responsibility for the displacement crisis lies with Boko Haram and its campaign of terror. However, the wider causes of the insurgency and the subsequent conflict and displacement crisis must be acknowledged and addressed to ensure a future of stability, peace and prosperity for the north-east. In order to avoid renewed conflict and displacement, it is vital to meet the challenges of underdevelopment, poverty, access to education, unemployment and poor governance that contributed to the creation of Boko Haram and the spread of its influence. That requires long-term solutions that provide justice for victims and durable solutions for internally displaced persons and a process to promote reconciliation and prevent violent extremism.**

B. Recommendations

74. **The Special Rapporteur makes the following recommendations. The Federal Government of Nigeria should:**

(a) Adopt as a priority a legal and policy framework for the protection of the human rights of internally displaced persons in conformity with international and regional standards, including the Guiding Principles on Internal Displacement, the Framework on Durable Solutions for Internally Displaced Persons and the Kampala Convention;

(b) Expedite and finalize tripartite agreement with neighbouring countries to facilitate safe and dignified return of refugees with the support of UNHCR;

(c) Strengthen the institutional framework for responses, including by enhancing capacity and funding, better defining roles and responsibilities and improving cooperation and coordination across bodies and between national and State actors;

(d) Consider the establishment of a ministry for humanitarian affairs or a similar high-level institution with a dedicated mandate to comprehensively address the situation of internally displaced persons;

(e) Increase national funds for assistance to internally displaced persons and displacement-affected communities, reconstruction and development-based responses to ensure durable solutions. A positive step would be to guarantee a percentage of national revenues for crisis responses;

(f) Improve access by humanitarian actors, with appropriate security in place, to all areas, including newly recovered areas, in which internally displaced persons and conflict-affected communities are highly vulnerable, and establish supply routes;

(g) Facilitate freedom of movement, especially for those living in camps to leave and return freely. While security measures are legitimate, easing restrictions on movement allows internally displaced persons to exercise their basic rights and seek economic opportunities;

(h) Conduct comprehensive profiling and assessments within and outside camps to identify the protection needs of internally displaced persons, including the most vulnerable such as unaccompanied children, older persons and persons with disabilities;

(i) Ensure to the fullest extent possible the civilian character of camps for internally displaced persons and the transfer of camp management to appropriate and trained civilian humanitarian personnel as soon as possible;

(j) Ensure that all members of security services comply with domestic and international law and benefit from good practices in the treatment of internally displaced persons, including training and deployment of female personnel to engage the large number of internally displaced women;

(k) Strengthen prevention and response measures on violence against women and girls, and prosecute those responsible for violations; give roles to women in camp management and distribution; ensure that water collection and bathing facilities are safe; and put in place rigorous protection monitoring and complaint processes;

(l) Enhance protection and support, including medical and psychosocial support, to displaced children, particularly unaccompanied and traumatized children and those who have been forcibly recruited or abducted and refrain from any unjustified detention of children and their detention in adult facilities;

(m) Ensure that a strategy is in place to increase access to the majority of internally displaced persons who are outside camps, including information and outreach projects, food and non-food item distribution points, and measures to identify the most vulnerable internally displaced persons;

(n) Take measures to ensure that internally displaced persons have access to civil identity and other documentation required to ensure their access to assistance and service provision;

(o) **Engage business and civil society actors in Nigeria to enhance their role in the humanitarian and recovery responses, including through direct assistance and donations and the coordination of national appeals;**

(p) **Ensure that screening and detention of internally displaced persons is justified and in compliance with international standards relating to detention, including conditions and duration of detention and access to legal assistance. The security forces should establish guidelines to allow civilians to have access to services during the screening process;**

(q) **Ensure the systematic and disaggregated collection of information on missing and deceased persons, including the development of a database in order to open cases with a view to identifying the whereabouts of family members, including children;**

(r) **In view of the significant human rights and protection challenges, a human rights monitoring mission under the auspices of OHCHR should be agreed to and rapidly deployed to the north-east;**

(s) **Ensure that return of internally displaced persons to their places of origin takes place voluntarily, with full information provision, and in conditions of security, dignity and appropriate support, particularly for women, children and other vulnerable groups;**

(t) **In collaboration with development partners, initiate as soon as possible a durable solution and development strategy for internally displaced persons, including reconstruction of affected areas, resilience building and recovery projects and measures to re-establish livelihoods, to ensure rapid progress beyond the emergency response phase;**

(u) **Establish consultation and participatory mechanisms to ensure that internally displaced persons are fully involved in decisions that affect them, including durable solutions options available to them;**

(v) **Facilitate and support a full investigation into possible violations of international humanitarian and human rights law and possible war crimes and crimes against humanity committed by Boko Haram members and any other actors accused of crimes, including members of the Nigerian security forces;**

(w) **Establish measures leading to an effective transitional justice process for victims and a peacebuilding process, ensuring that internally displaced persons are fully involved in such initiatives;**

(x) **Continue working to resolve all situations of internal displacement in Nigeria and maintain support for internally displaced persons until durable solutions are achieved for them.**

75. **The Special Rapporteur considers that the United Nations and the international community should:**

(a) **Respond fully and rapidly to requests for humanitarian funding and material assistance across all humanitarian sectors to ensure that the 2017 Humanitarian Response Plan is fully funded and financial pledges delivered;**

(b) **Assist national actors in the collection of data on internally displaced persons and profiling of displaced populations and humanitarian and protection concerns and strengthen coordination of protection actors;**

(c) **Ensure provision of adequate resources to facilitate access to essential services for internally displaced persons, as well as to strengthen the prevention and response mechanisms on violence against women and girls;**

(d) **Support the Government in the development of solutions strategies and integrate durable solution approaches for internally displaced persons as early as possible in the displacement crisis, as part of the protection and assistance response to displacement;**

(e) **Promote the engagement of international development partners and the implementation of development approaches and assist the Government in the implementation of measures to support durable solutions for internally displaced persons and a regional reconstruction and development plan;**

(f) **Support the strengthening of international human rights monitoring mechanisms in collaboration with national human rights institutions and human rights protection systems;**

(g) **Support through technical cooperation measures in the field of transitional justice, community reconciliation and peacebuilding, initiatives to ensure justice and compensation for internally displaced persons and other affected communities and to prevent future conflict and displacement.**

United Nations A/HRC/35/27/Add.2

General Assembly

Distr.: General
4 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Georgia

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of internally displaced persons on his follow-up visit to Georgia from 24 to 29 September 2016. The objective of the visit was to re-examine the human rights situation of internally displaced persons and to follow up on the visit the Special Rapporteur conducted in 2013 and on the visits of the Representative of the Secretary-General on the human rights of internally displaced persons, in 2005, 2008, 2009 and 2010.

Although the Government of Georgia has made considerable progress in providing durable solutions for all internally displaced persons and in addressing the issue of those displaced by disasters, the Special Rapporteur encourages the Government to review its approach to addressing internal displacement and find alternative ways of supporting internally displaced persons that allow for ending "internally displaced person status" and the inheritance thereof, in line with international standards. Moreover, further efforts to improve the living conditions and livelihoods of internally displaced persons remain necessary.

One of the main obstacles to the achievement of durable solutions is the coiled razor wire fences along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, which continue to deprive internally displaced persons and communities affected by displacement of freedom of movement and choice of residence, creating tangible obstacles to their access to land, property, water and livelihoods. In relation to Abkhazia, Georgia, the Special Rapporteur particularly stresses that access to documentation must be guaranteed to all returnees in order for them to enjoy their rights, including freedom of movement. Documentation should therefore be issued to those affected at the earliest opportunity in a transparent and accountable manner.

In that connection, the Special Rapporteur calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take all necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to integrate locally or to resettle elsewhere in the country.

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Report of the Special Rapporteur on the human rights of internally displaced persons on his follow-up mission to Georgia*

I. Introduction

1. In accordance with his mandate contained in Human Rights Council resolution 32/11 and at the invitation of the Government of Georgia, the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani,[1] conducted an official follow-up visit to Georgia from 24 to 29 September 2016. The objective of the visit was to re-examine the human rights situation of internally displaced persons and to follow up on the visit he conducted in 2013 and on the visits of his predecessor, the Representative of the Secretary-General on the human rights of internally displaced persons, in 2005, 2008, 2009 and 2010.

2. During his five-day visit, the Special Rapporteur met with the Minister and First Deputy Minister for Foreign Affairs; the Minister and Deputy Minister for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees; the State Minister and First Deputy Minister for Reconciliation and Civic Equality; the Public Defender; the United Nations Resident Coordinator; and representatives of the United Nations system and of civil society. He also met with internally displaced persons in collective centres and private accommodation to hear directly from them about their situation and their preferred solutions.

3. The Special Rapporteur visited Tbilisi and also travelled to Khurvaleti, Nikozi, Zugdidi and Rukhi. He regrets that he was unable to visit Abkhazia, Georgia, as his request to do so was not granted by the authorities in control there.[2] He was given to understand that the timing of the mission was difficult for the authorities in control to accommodate, which prevented him from witnessing the situation at first-hand. Nonetheless, he was able to meet with internally displaced persons who had returned at the Khurcha and Inguri bridge[3] crossing points, so as to learn from those primarily concerned of the challenges they face.

4. The Special Rapporteur wishes to express his gratitude to the Government of Georgia for its continuing cooperation and the constructive dialogue in which he was able to engage with the authorities he met. He would also like to sincerely thank the Office of the United Nations High Commissioner for Refugees (UNHCR) for ably coordinating his visit to Georgia. He is grateful for all the logistical, administrative and substantive support he received, which facilitated the conduct of the visit. Lastly, he is also grateful to all his interlocutors, especially internally displaced persons, who kindly shared their experiences and different perspectives with him. He looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of the recommendations contained in the present report.

5. In his report, the Special Rapporteur aims to provide an updated assessment of the human rights situation of internally displaced persons in Georgia. An updated overview of the legal framework for the protection of the human rights of internally displaced persons and an analysis of the challenges and progress made in that regard, and in relation to the overall response to internal displacement, are provided in section II. In section III, the

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* Circulated in the language of submission only.

[1] Chaloka Beyani completed his term as Special Rapporteur on 31 October 2016. Cecilia Jimenez-Damary was appointed Special Rapporteur on the human rights of internally displaced persons by the Human Rights Council in September 2016 and assumed the mandate on 1 November 2016.

[2] All references are consistent with the language used in the report of the Secretary-General on the status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia (A/70/879).

[3] Ibid.

Special Rapporteur discusses current opportunities and challenges for an integrated approach to the situation of internally displaced persons and the obstacles to achieving durable solutions to displacement. In section IV he sets out his findings and action-oriented recommendations for the Government of Georgia, the authorities in control in Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, civil society, the international community and internally displaced persons.

II. Legal protection

6. The Special Rapporteur welcomes the steps taken by the Government of Georgia to strengthen the legal framework for the protection of the human rights of internally displaced persons. A draft law, which was being prepared at the time of his previous visit in 2013, was subsequently adopted in February 2014 and entered into force on 1 March 2014, abrogating the 1996 law of Georgia on forcibly displaced persons-persecuted persons.

7. The main changes for internally displaced persons introduced in the new law include an increase in the monthly allowance for internally displaced persons to 45 lari; suspension of the allowance if the taxable income of an internally displaced person amounts to 1,250 lari or more; elimination of the differentiation between internally displaced persons in "compact" and "private" accommodation, so that all such persons receive an equal allowance; full protection of internally displaced persons from evictions from premises of which they are the legal owners; a simplified procedure for granting "internally displaced person status"; a new definition of the concept of family in order to respect the right to family unity; recognition of the right to restitution of property belonging to internally displaced persons in the occupied territory and the right to inherit it; and the introduction of guarantees for the integration of internally displaced persons into other parts of the country before their return to their places of permanent residence.[4]

8. As documented in his previous report, the Special Rapporteur appreciates the fact that the new law seeks to address some of the main concerns reiterated by his predecessor regarding the protection of internally displaced persons (A/HRC/26/33/Add.1). The political will demonstrated by the Government of Georgia and the relevant stakeholders in addressing gaps in the national legislation on internally displaced persons and ensuring its compliance with international standards continues to be recognized and the new law contains several important provisions that align the Georgian legal framework on internally displaced persons with the Guiding Principles on Internal Displacement.

9. While noting that the definition of an internally displaced person is exclusive to situations of forced displacement as a result of the occupation of territory by a foreign State, aggression, armed conflict, mass violence and/or massive human rights violations, the Special Rapporteur welcomes the adoption by the Government of Georgia of the normative act on the approval criteria for the accommodation of persons affected by and displaced as a result of natural disasters and its amendment in 2015, which identified the circumstances in which a family is considered an "eco-migrant".[5] However, the Special Rapporteur encourages the Government to develop and adopt legislation for persons known as "eco-migrants" because they have been displaced as a result of environmental changes, to define the rights and guarantees for legal, economic and social protection for persons who have been internally displaced owing to natural and human-induced disasters, in accordance with applicable international standards.

10. In order to support the implementation of the law on internally displaced persons, in 2007 the Government endorsed a strategy that signalled an important shift in government

[4] See http://mra.gov.ge/eng/static/3421. Article 4 of the 2014 law of Georgia on internally displaced persons — persecuted from the occupied territories of Georgia defines the permanent place of residence of an internally displaced person as "a place selected for residence by an IDP, his/her displaced parent(s) or his/her lineal relative of ascending generation from where he/she, his/her parent(s) or his/her lineal relative of ascending generation were displaced and where he/she cannot return due to the reasons referred to in paragraph 1, article 6 of this Law".

[5] Ministerial decree No. 779 13/11/2013.

policy from temporary assistance to a focus on providing longer-term opportunities for integration. The strategy was accompanied by various action plans (for the periods 2009-2012, 2012-2014 and 2015-2016), formulating in more detail the activities to be implemented to achieve the objectives of the strategy. The current action plan sets three main goals for the State: (a) to improve the living conditions of internally displaced persons by providing durable housing solutions; (b) to improve livelihoods and socioeconomic integration; and (c) to raise awareness among internally displaced persons of the services available to them.[6]

III. From status-based to needs-based approaches

11. In 2013, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees carried out a new registration exercise for all internally displaced persons in order to update information in its database on internally displaced persons regarding the numbers, places of residence and family composition for all such persons, with a view to addressing their specific needs and finding durable solutions for them, and improving the policy planning process. Internally displaced persons were still able to register at the central office of the Ministry in Tbilisi until 1 April 2014. Following the end of the registration exercise, they can still register by contacting the hotline at the Ministry to schedule an appointment for registration. In addition, according to the rules in the legislation, the Ministry periodically carries out registration of internally displaced persons for data optimization.[7]

12. According to the Government, 272,049 persons remained internally displaced in Georgia as at the end of September 2016.[8] The number of internally displaced persons has continued to increase annually, due to the registration of new internally displaced persons, including returnees (mainly migrants), from other countries and children born to at least one internally displaced parent, given that under the current legislation "internally displaced person status" descends from one generation to the next. That should be brought into line with international standards.

13. The Special Rapporteur stresses that the notion of who is an internally displaced person does not connote a legal status. Internally displaced persons remain citizens or habitual residents of their particular State and are entitled to protection and assistance on that basis alone, as stated in the Guiding Principles on Internal Displacement. While noting that the "internally displaced person status" provided for in Georgian law has a strong value that is linked to return for displaced persons in Georgia and many wish to retain it, the Special Rapporteur emphasizes that a better approach would be the transition from legal status to needs-based responses, as proposed by the Government, which would allow for the inheritance of "internally displaced person status" to be ended and enable needs-based approaches to durable solutions for internally displaced persons in Georgia. In that regard, as is clearly stated in the 2010 Inter-Agency Standing Committee framework on durable solutions for internally displaced persons: "An IDP's choice of local integration or settlement elsewhere in the country, in the absence of the option to return, must not be regarded as a renunciation of his/her right to return should that choice later become feasible." According to the framework, internally displaced persons should be considered as such until they can enjoy their rights without discrimination and do not have any protection issues or assistance needs related to the displacement of their family.[9]

14. A rights-based approach, with rights supplementing the proposed shift by the Government of Georgia to a needs-based approach to its response, would still retain the purpose that the "internally displaced person status" was intended to safeguard, namely the

[6] By late 2016, the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees was preparing an action plan for the period 2017-2018.

[7] Based on a paper shared by the Government of Georgia with the Special Rapporteur on the human rights of internally displaced persons on 24 September 2015.

[8] Ibid.

[9] Available from www.**Error! Hyperlink reference not valid.**.

right of return.[10] In that context, a comprehensive assessment and analysis of the circumstances of internally displaced persons based on the Inter-Agency Standing Committee framework would therefore help to inform national policies and programmes, as well as more efficiently target those who still have clear displacement-related needs, while mitigating the rise in numbers of internally displaced persons, which is a result of the fact that "internally displaced person status" can be inherited. Such a comprehensive evidence base would also inform area-based solutions, emphasizing the role of regions and municipalities and the need for strengthening their capacity so that they can adequately integrate internally displaced persons in existing service programmes for the population at large.

15. As the current action plan for internally displaced persons is coming to an end, the preparation of the action plan for 2017-2018 offers an opportunity to elaborate further the steps the Government of Georgia should take to continue its gradual transition from status-based to needs-based responses.[11] The Special Rapporteur recommends that this process is carried out in a way which is transparent, consultative and inclusive of all relevant stakeholders, including civil society, international organizations and internally displaced persons themselves, as provided for in the relevant law. He encourages the Government to continue to share information relating to its ongoing initiatives and other relevant measures with internally displaced persons, to consult with them and enable their participation in decisions affecting them.

IV. Search for durable solutions for internally displaced persons: progress made and remaining challenges

16. While durable solutions for internally displaced persons should continue to be approached from a humanitarian and development perspective, the continuing absence of a political solution to the unresolved conflict remains a major obstacle to achieving durable solutions for internally displaced persons from Abkhazia, Georgia, and from the Tskhinvali region/South Ossetia, Georgia. The Special Rapporteur reiterates the recommendation made in previous reports of the mandate and calls upon all parties to take all necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to integrate locally or to resettle elsewhere in the country.

17. In that context, the Special Rapporteur welcomes the survey on the intentions of internally displaced persons carried out by UNHCR in 2014. The survey showed that 88.3 per cent of respondents wished to return voluntarily to their area of origin under conditions perceived as favourable. However, in the absence of such conditions, 57.3 per cent felt fully integrated and 33.3 per cent felt partially integrated into where they were living at the time, indicating that housing and livelihoods were their main concerns.

18. As highlighted in his previous mission report, the Special Rapporteur welcomes and commends the efforts of the Government to provide durable housing to internally displaced persons, which has remained a high priority. According to governmental sources, in the period from 2013 to 2016, internally displaced persons were provided with 4,112 newly constructed or rehabilitated housing units. In the same period, the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees also allocated finance for purchasing 2,406 housing units for internally displaced persons, including rural housing projects that combine the provision of shelter with agricultural land, and continued its efforts towards privatization. Moreover, at the time of the visit, about 4,017 internally displaced persons had received one-time monetary support from the Ministry in 2016 and 1,207 internally displaced families had had their rental costs covered.

[10] Government of Georgia, 2007 strategy for internally displaced persons and action plan for the period 2014-2016.

[11] According to information provided by the Government in March 2017, the proposed action plan for the period 2017-2018 includes adapting the internally displaced person allowance to their needs and involving internally displaced persons in State social insurance programmes.

In total, some 40 per cent of internally displaced persons are reported to have already received durable housing.

19. The Special Rapporteur also notes with satisfaction the efforts of the Government to establish transparent procedures for the allocation of durable housing to internally displaced persons, based on vulnerability criteria jointly developed with non-governmental stakeholders (although reportedly there are still concerns about the selection process), and the improved quality of housing provided to internally displaced persons, such as he witnessed at the Tbilisi Sea complex.

20. However, a number of issues remain to be addressed. The Special Rapporteur emphasizes that there is an urgent need to continue to improve the living conditions of internally displaced persons in some collective centres, for example for those whom he visited in a non-rehabilitated collective centre in Zugdidi. Moreover, the living conditions of internally displaced persons who reside in private accommodation are often as bad as, or even worse than, those of persons residing in collective centres. Considering overall needs and the fact that every registered internally displaced person is entitled by law to a durable housing solution, such solutions remain limited, despite the efforts of the authorities, and the Government struggles to find sufficient funds in the State budget for this purpose.

21. While access to adequate housing remains a fundamental component of durable solutions for internally displaced persons, other aspects must also be addressed for a durable solution to be achieved.[12] The Inter-Agency Standing Committee framework indicates that particular attention should be paid to the following areas: access to employment and livelihoods; access to quality education, medical and social services (as key components of an adequate standard of living, together with housing); safety, security and freedom of movement; and access to effective mechanisms that restore housing, land and property or provide compensation.

22. The Special Rapporteur notes the adoption of a livelihood action plan for internally displaced persons for the period 2016-2017 and the establishment within the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of the Livelihood Legal Entity of Public Law. It is important to improve the livelihoods of internally displaced persons and to include them in different State programmes run by the relevant ministries and governmental bodies. That is essential, as employment and income security remain among the most pressing issues for internally displaced persons. During the Special Rapporteur's meetings with internally displaced persons, many mentioned that their only source of income was the allowance for internally displaced persons they received from the Government. A World Bank study on the subject showed that although there are no significant differences in poverty levels between internally displaced persons and others, differences persist in unemployment and income security, confirming the higher dependence of internally displaced persons on social transfers such as pensions, scholarships, social assistance and remittances.[13]

23. However, the impact of these government initiatives has been limited. The Special Rapporteur stresses that strengthening the efficiency and effectiveness of government initiatives in support of the livelihoods and employment-generating activities of internally displaced persons, particularly those that are community-based, remains fundamental. Moreover, further efforts are needed to ensure that internally displaced persons have equal information and opportunities for accessing all available services, including by promoting better outreach and awareness-raising among internally displaced persons regarding the services available to them, in addition to the specific assistance they receive.

24. The Special Rapporteur also encourages the donor community to continue to provide funding and support for initiatives aimed at supporting durable solutions, particularly

[12] In its framework on durable solutions for internally displaced persons, the Inter-Agency Standing Committee states: "A durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement."

[13] World Bank, "Supporting the livelihoods of internally displaced persons in Georgia" (May 2013).

through integrated humanitarian and development approaches. As he pointed out in his previous report, the Government should also redouble its efforts to integrate the needs of internally displaced persons into national, regional and local development plans that are sensitive to displacement issues.

25. While progress has been made towards the local integration and settlement elsewhere of internally displaced persons, pending their return to areas of habitual residence, the Special Rapporteur expresses his concern that the majority of the internally displaced from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, have been unable to return to their homes. Their prospects for return remain poor for several reasons, including obstruction and concerns for their security.

26. One of the main obstacles to the achievement of durable solutions is the coiled razor wire fences along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, which continue to deprive internally displaced persons and communities affected by displacement of freedom of movement and of choice of residence, creating tangible obstacles to their access to land, property, water and livelihoods. Monitoring missions have observed that although the installation of fences has decreased since 2013, obstacles to freedom of movement and the choice of place of residence continue to be placed along the administrative boundary line, including so-called State border signs, watchposts and surveillance equipment (see A/70/879, para. 21).

27. The Special Rapporteur was informed that an estimated 50,000 internally displaced persons had spontaneously returned to their homes in the Gali, Ochamchire or Tkvarcheli districts, Georgia, and that they had maintained their legal status as internally displaced persons and continued to receive the related allowances. The Special Rapporteur regrets that those returnees continue to face difficult living conditions, including housing and livelihood issues. He met with some of them at the Khurcha and Inguri bridge crossing points and they shared their experiences and most pressing concerns, particularly the lack of access to documentation which affects many (estimates indicate that roughly half of the population of Gali is either undocumented or holds only temporary documentation in the shape of form No. 9). That has an extremely negative impact on a wide variety of rights: recognition as a person before the law, freedom of movement and access to employment and services, such as health care, education and social security.

28. Other major concerns the Special Rapporteur wishes to highlight relate to detention for "illegal" crossing of the dividing line, the closure of two crossing points in 2016 and the risk that more will be closed in the near future,[14] and the progressive change of language of instruction in lower and upper schools in Gali from Georgian to Russian, in a situation in which many teachers and students lack proficiency in Russian. That is likely to cause secondary displacement by effectively pushing Georgian-speakers out from those areas.

29. The Special Rapporteur also stresses that all possible measures have to be taken to ensure sustained and effective, free and unhindered access and space for the international actors concerned in relation to Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, so that durable solutions can be pursued and supported in a comprehensive manner.

V. Conclusions and recommendations

30. **The Special Rapporteur commends the continuing commitment by the Government of Georgia and acknowledges its progress in the search for durable solutions for all internally displaced persons. Nevertheless, further joint efforts are necessary to overcome the obstacles to durable solutions. Based on his observations and the information made available to him, the Special Rapporteur presents the following conclusions and recommendations.**

[14] The Special Rapporteur was informed by the Government of Georgia that, contrary to his recommendations, two additional crossing points were closed on 5 March 2017.

31. The Special Rapporteur encourages the Government of Georgia to review its approach to addressing internal displacement and intensify its efforts to protect the rights of all internally displaced persons, including those displaced in the early 1990s and in 2008, and assist them on the basis of their needs and rights, rather than their "internally displaced person status", which is not provided for in international law. The Special Rapporteur recommends that alternative ways of supporting internally displaced persons be found that allow for ending that status and the inheritance thereof, in line with international standards.

32. As the action plan to implement the State strategy on internally displaced persons for the period 2015-2016 is coming to an end, the preparation of the action plan for the period 2017-2018 offers an opportunity for the Government to identify concrete steps for the proposed gradual shift to a needs-based approach, with rights supplementing such a shift by the Government of Georgia, therefore retaining the purpose that the "internally displaced person status" was intended to safeguard. It is crucial that such a process is inclusive and participatory and that civil society, international organizations and internally displaced persons are fully consulted on this matter. The Government should also commit to conducting a serious information campaign to convince internally displaced persons that "internally displaced person status" is not necessarily a precondition for their enjoyment of rights.

33. The Special Rapporteur notes that, in this context, a comprehensive analysis and assessment of the circumstances of internally displaced persons based on the Inter-Agency Standing Committee framework on durable solutions would therefore help to inform and tailor national policies and programmes, as well as more efficiently targeting those who still have clear needs related to displacement, while mitigating the rise in the numbers of internally displaced persons, which is a result of the fact that "internally displaced person status" can be inherited. The Special Rapporteur notes that the Government has not yet adopted a new law on eco-migrants and he encourages it to ensure that the proposed draft law defines the rights of persons internally displaced as a result of disasters and the guarantees for their legal, economic and social protection, in accordance with international standards.

34. The Special Rapporteur commends the continuing commitment by the State authorities to improving the living conditions of internally displaced persons by providing durable housing to all those who were internally displaced. However, there is an urgent need to improve the living conditions of internally displaced persons who are still living in deplorable conditions, whether in collective centres or private accommodation. He urges the Government to take all necessary measures to guarantee adequate living conditions to all internally displaced persons in conformity with the Guiding Principles on Internal Displacement. In that connection, he also urges the Government to develop a plan for the closure of the remaining 58 centres with "collapsing collective centre" status, while ensuring that the list of such centres is comprehensive and complete.

35. The Special Rapporteur commends the Government and, in particular, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees for the efforts made to provide new housing for internally displaced persons affected by the conflicts in the 1990s and in 2008. It is important that solutions for shelter be made durable through a needs-based approach. In that regard, he encourages the Government to continue investing beyond infrastructure to strengthen the efficiency and effectiveness of its initiatives in support of the livelihoods and employment-generating activities of internally displaced persons, particularly those that are community-based.

36. The Special Rapporteur recommends that the Government increase its efforts to integrate the needs of internally displaced persons into national, regional and local development plans and initiatives that are sensitive to displacement issues. In order to do that, it is paramount to secure a serious commitment from all Government counterparts to the mainstreaming of the needs of internally displaced persons in such plans and initiatives, while redoubling government efforts to allocate sufficient State budget resources to development efforts that include internally displaced persons. The

Special Rapporteur expresses the hope that the donor community will continue to provide funding and support for initiatives aimed at supporting durable solutions, particularly through integrated humanitarian and development approaches.

37. **The Special Rapporteur encourages the Government to continue to share information relating to its ongoing initiatives and other relevant measures with internally displaced persons, international partners and civil society. He also encourages the Government to consult with internally displaced persons and facilitate their involvement in decisions affecting them. That is of the utmost importance in establishing the conditions and means for achieving durable solutions for internally displaced persons in safety and dignity, based on their informed and voluntary choice of durable solutions.**

38. **The Special Rapporteur urges the Government to ensure the full and effective enjoyment of the human rights of internally displaced persons, in particular women, to access land and property. Moreover, the enjoyment of internally displaced persons of the right to housing, land and property is an essential component of the building of durable solutions. The Special Rapporteur reminds the Government that internally displaced persons are entitled to restitution of or compensation for their property, regardless of whether they choose to return, integrate locally or resettle elsewhere.**

39. **The Special Rapporteur continues to strongly condemn the installation of the coiled razor wire fence along the administrative boundary line of the Tskhinvali region/South Ossetia, Georgia, and calls on those responsible for installing the fence to stop the process and remove all such barriers. The Special Rapporteur recommends that the Government continue to ensure effective monitoring of the protection of the human rights of the internally displaced persons concerned. Furthermore, the Special Rapporteur recommends that the Government of Georgia and the authorities in control in South Ossetia ensure the full enjoyment of the human rights of those internally displaced persons, including the rights relating to freedom of movement and access to property and livelihoods.**

40. **The Special Rapporteur particularly stresses in relation to Abkhazia, Georgia, that access to documentation must be guaranteed to all returnees in order for them to enjoy their rights, including freedom of movement. Documentation should therefore be issued to those affected at the earliest opportunity in a transparent and accountable manner.**

41. **The Special Rapporteur calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take all necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to integrate locally or to resettle elsewhere in the country. Interim measures should be taken without delay to reduce the worrying documentation gap and the vulnerability of returnees, coupled with rights-based long-term solutions.**

42. **The Special Rapporteur also stresses that all possible measures have to be taken to ensure sustained and effective, free and unhindered access and space for the international actors concerned in relation to Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, so that durable solutions can be pursued and supported in a comprehensive manner.**

United Nations A/HRC/35/27/Add.3

General Assembly

Distr.: General
12 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Afghanistan

Note by the Secretariat

For decades, conflict has been an almost constant presence, and, for many, internal displacement has become a regular occurrence or a permanent feature of life. The trends are negative and worsening. In 2016, more than 600,000 people in Afghanistan fled conflict to seek safety in other areas of the country. In that period, an average of 1,500 people a day were forced from their homes. The Government is struggling to cope as international attention to Afghanistan wanes. An influx of refugees and undocumented Afghans pushed back from Pakistan has increased the burden on the Government, which lacks resources and capacity. With displacement and returns likely to increase in 2017, further escalation of the conflict and displacement crisis would overwhelm the capacity of the Government and its partners to respond effectively.

The current system of national institutions does not meet the needs of many internally displaced persons and should be reviewed. While the political will to protect them is emerging, this has not translated into comprehensive and effective Government-led responses. The National Policy on Internally Displaced Persons is a commendable policy tool to guide government responses, but its implementation has been poor and it has remained a neglected resource. Responses to short-term displacement are barely adequate, while those who are in protracted displacement, often for years, are commonly left to fend for themselves. While government officials blame resource shortfalls for lack of progress, a deficit of good governance and accountability are contributing factors that must be addressed.

A new commitment is required from the Government to meet the needs of internally displaced persons. The particular challenges experienced by children and by displaced women and girls, including forced and early marriage, must be better addressed. Despite the challenges, some positive practice is taking place that demonstrates that progress towards durable solutions is possible for those in protracted displacement situations. In Herat and Mazar-e-Sharif, interventions in cooperation with local authorities are securing landownership or occupation rights, providing homes, essential services and livelihoods. However, such positive practices are the exception and must be extended and replicated for the benefit of many thousands more internally displaced persons in desperate need throughout the country.

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Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Afghanistan*

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I. Introduction

1. In accordance with his mandate under Human Rights Council resolution 32/11, the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani,[1] visited Afghanistan from 11 to 20 October 2016 at the invitation of the Government. During his visit, he travelled to Kabul, Herat and Mazar-e-Sharif.

2. The objective of the visit was to consult with the Government and key stakeholders on issues concerning internal displacement, implementation of the National Policy on Internally Displaced Persons[2] and to identify the humanitarian, human rights and protection concerns facing them. He consulted with senior government officials responsible for displacement responses and other key national and international stakeholders on the issues and ongoing challenges regarding internally displaced persons.

3. The Special Rapporteur thanks the Government for its invitation and cooperation, and its continued constructive engagement with the mandate. He also thanks the regional government representatives with whom he met. He is grateful to the United Nations Assistance Mission in Afghanistan (UNAMA) and, in particular, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the High Commissioner for Human Rights for their support. He thanks the representatives of the other national and international bodies, institutions and individuals with whom he met and who provided valuable information.

4. The Special Rapporteur visited several settlements for internally displaced persons, where he learned about their situations, challenges, protection concerns and hopes for solutions to their problems. He sought information on the situation of host communities where most internally displaced persons are living and that frequently face challenging circumstances and require assistance and support.

5. In July 2012, the Special Rapporteur had attended a Government-hosted conference to assist in developing a policy framework on internally displaced persons, which had been subsequently endorsed in November 2013 as the above-mentioned National Policy. For Afghanistan, with its conflict- and natural disaster-related displacement, the Policy had constituted an important commitment to the rights of the displaced in line with international standards, and had allowed for the necessary institutions and budgetary and policy requirements to provide emergency humanitarian assistance and durable solutions. On returning in 2016, the Special Rapporteur sought to assess how the Policy had been implemented and its impact for internally displaced persons.

II. Context of internal displacement

6. In 2016, over 623,000 Afghans were internally displaced by conflict nationwide,[3] continuing the upward trend of the previous four years, including a record 450,000 persons displaced in 2015. On average, 1,500 people were forced to leave their homes to escape violence each day.[4] Displacement has affected every province, some significantly more than others.[5] Internal displacement is becoming more protracted for more people, requiring

[1] Chaloka Beyani completed his term as Special Rapporteur on 31 October 2016. Cecilia Jimenez-Damary was appointed Special Rapporteur on the human rights of internally displaced persons by the Human Rights Council in September 2016 and assumed the mandate on 1 November 2016.

[2] Available from http://more.gov.af/Content/files/National%20IDP%20Policy%20-%20FINAL%20-%20English(1).pdf.

[3] See https://afghanistan.iom.int/press-releases/iom-launches-displacement-tracking-afghanistan-humanitarian-crisis-looms.

[4] See www.humanitarianresponse.info/en/operations/afghanistan/document/afghanistan-2017-humanitarian-response-plan.

[5] In total, 31 are producing displacement and all 34 are hosting displaced populations, although in Central Highland Province the number is negligible.

the Government and its humanitarian and development partners to find new, innovative and sustainable responses for those who cannot return to their homes. Increasingly, internally displaced persons are seeking security and assistance in urban areas, a trend that requires durable solutions in the context of urbanization and urban planning. A history of conflict from the 1970s created an existing protracted caseload of over 1 million such persons, many of whom remain in need of durable solutions.[6]

7. Up to 5 million people fled Afghanistan during the war between its Soviet-backed Government and so-called *mujahideen* fighters, and the subsequent Soviet occupation. After the fall of the communist Government in 1992, civil war between *mujahideen* factions along ethnic or political lines caused a further 600,000 internally displaced persons. Following the Taliban's rise to power in 1996, another 1 million people were displaced by conflict between its Pashtun forces and the Northern Alliance comprising other ethnic groups. In the aftermath of the 11 September 2001 attacks, the International Security Assistance Force[7] intervened militarily while United States of America forces launched a parallel intervention. Conflict between the United States-backed Northern Alliance and the Taliban and ongoing inter-ethnic violence caused more large-scale displacement, which reached its peak in 2002 at 1.2 million people.

8. The nature of the conflict has meant that thousands have been displaced for relatively short periods. An increase in rural-to-urban displacement has been observed, while urban-to-urban displacement has also increased as communities have left conflict-affected urban areas and sought safety in other urban centres. Until 2006, many internally displaced persons had returned to their places of origin. Increasing attacks on urban centres and the temporary holding of cities such as Kunduz by the Taliban have caused new displacement trends as people have sought safety in cities accessible to them. The appearance in eastern regions of groups affiliated with Islamic State in Iraq and the Levant has created additional displacement and challenges for the Government. The possible infiltration of those groups in urban displaced communities has led to police raids on some displaced communities.

9. Many internally displaced persons who experience periodic or constant insecurity or frequent displacement decide not to return to their homes. Many sell or abandon their land and property because of insecurity, threats, forced recruitment and other factors. Movement to locations where family or ethnic ties exist is a feature of displacement and means that community-based responses are essential. Large-scale internal displacement and returns contribute to rapid urbanization and increase pressure on already overstretched services as the displaced choose urban centres despite political efforts to locate them in rural areas. Some estimates suggested Kabul grew by some 1,200 people per day owing to the influx of displaced and returnees. At the time of the visit, more than 50 informal sites around Kabul housed an estimated 55,000 internally displaced persons.

10. Adding to the challenges facing the Government, in 2016 over 600,000 Afghans, either documented refugees, undocumented or deportees, returned from Pakistan and, to a lesser extent, the Islamic Republic of Iran. Many returnees require ongoing support to reintegrate into Afghan society, some for the first time. Most seek to settle in urban centres, including Kabul and Jalalabad. Many become internally displaced in Afghanistan, unable or unwilling to return to places of origin owing to conflict or control of territories by armed groups. In October 2016, European Union leaders signed an agreement with the Government of Afghanistan — the "joint way forward"[8] — to allow European Union countries to deport Afghan asylum seekers. Although the agreement had not been implemented fully at the time of drafting, over 750,000 Afghans had travelled to Europe in 2015 and 2016 and many faced deportation.

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[6] See www.internal-displacement.org/south-and-south-east-asia/afghanistan/2015/afghanistan-new-and-long-term-idps-risk-becoming-neglected-as-conflict-intensifies.

[7] Later renamed Operation Resolute Support in 2015 with fewer troops on the ground.

[8] See https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf.

61. Some commentators expressed concern that the high numbers of returnees would create new or secondary displacement of some existing and long-term internally displaced persons in urban centres. Those returnees who had been registered with UNHCR as refugees in Pakistan had been provided with individual cash payments of $400, which may result in their having greater ability to rent land or housing than impoverished internally displaced persons, who may face eviction. Moreover, rent prices were reportedly increasing owing to the sudden increase in returnees. Those returnees who were undocumented did not receive the same cash grant and were likely to be in greater need of initial assistance, adding to the burden on services, land and shelter.

62. The need for accurate and comprehensive disaggregated data and tracking of internally displaced persons is acute. While positive steps have been taken, including by the International Office for Migration (IOM), UNHCR, the Office for the Coordination of Humanitarian Affairs, international non-governmental organizations and national partners, there remains a lack of essential information, particularly on those in protracted displacement, and an accurate assessment of their needs. In February 2017, in response to recent levels of internally displaced persons and returnees, IOM launched its Displacement Tracking Matrix[9] to better understand population movements and needs. According to the Afghanistan 2017 Humanitarian Response Plan, a further 1 million Afghans are likely to return from Pakistan and the Islamic Republic of Iran in 2017, and an additional 450,000 people could become internally displaced owing to the conflict.[10]

63. Disasters brought on by natural hazards, and development projects continue to cause significant levels of displacement and may affect people already displaced by conflict and violence. Afghanistan is prone to seasonal flooding, landslides, avalanches, drought and other extreme weather events, and earthquakes. These all have the potential to destroy homes and infrastructure, particularly in the northern and north-eastern regions leaving tens of thousands of people vulnerable to displacement each year. There has been only limited investment in disaster risk reduction and preparedness measures due to the long-term conflict and scarce resources for such measures.

III. National legal, policy and institutional responses

64. In 2015, the Government endorsed the National Policy on Internally Displaced Persons, a development that the Special Rapporteur, who had assisted in its drafting, described as constituting "a beacon of hope for Afghanistan's internally displaced". The Policy — a comprehensive document based upon international standards, including the Guiding Principles on Internal Displacement — outlines the challenges and rights of internally displaced persons and, recognizing the primary responsibility of the Government, sets out the roles and responsibilities of institutions and implementing partners. It considers the rights to be protected and the actions required at all phases, from prevention of displacement to emergency phase responses, protection and assistance during displacement, and the achievement of durable solutions. The Policy establishes a funding commitment by the Government at the central and local levels, a strategic and planning commitment and measures to monitor and report on progress in addressing the human rights and needs of internally displaced persons, incorporating a human rights-based approach.

65. The National Policy assigned roles to dedicated institutions, primarily the Ministry of Refugees and Repatriations and the Afghanistan National Disaster Management Agency. The Ministry is the lead ministry, the institutional focal point and provider of last resort in all matters related to internal displacement. It is responsible for developing a national implementation plan for the Policy and for coordinating implementation. Its responsibilities also include chairing a commission on migration, developing an information management system to coordinate and support provincial action plans for durable solutions, and planning, managing and coordinating protection-related activities. The Agency is the

[9] A system that uses tools and processes to track and monitor population movement during crises.

[10] See www.humanitarianresponse.info/en/operations/afghanistan/document/afghanistan-2017-humanitarian-response-plan.

designated lead to address the short-term emergency needs of persons displaced by natural disasters. It plays a role in response to conflict-induced displacement in coordination with the Ministry and other partners and has provincial directorates in all 34 provinces.

16. The Government has established policy and coordination bodies — including the High Commission on Migration, chaired by the President, which comprises 17 different ministries and institutions, and the Subcommittee on Refugees of the Council of Ministers, under the Chief Executive — to coordinate on issues related to emergency assistance to returnees and to a lesser extent internally displaced persons, issues of land allocation and financial issues related to the support to return and reintegration. The coordination encompasses humanitarian and development actors, including the World Bank. Some sources have criticized the apparent duplication of coordination bodies. Since 2016, a fully applied humanitarian sector cluster system has operated, while humanitarian partners have favoured cross-sectoral approaches to address the complex challenges. In 2016, UNHCR handed overall coordination of the humanitarian response to internal displacement to the Office for the Coordination of Humanitarian Affairs while retaining its leadership in the protection and emergency clusters on shelter and non-food items.

17. Significant responsibility falls to provincial and district governors, mayors and relevant local authorities, including emergency response and preparedness and the development of provincial action plans for durable solutions. Governors should work in coordination with directorates for refugees and repatriation, the local-level implementation arms of the Ministry of Refugees and Repatriations. In Herat and Mazar-e-Sharif, provincial and district authorities have taken positive steps to address the situation of internally displaced persons and provide durable solutions. However, this is not common, and actions in other provinces vary greatly and rely heavily on the inclination of governors to support the displaced. Tribal and political allegiances and funds are factors in the support provided. Some governors act independently from central Government, creating a highly decentralized system in practice.

18. The Special Rapporteur found that, while the National Policy was a commendable resource and some positive developments included provincial action plans for its implementation in selected pilot provinces, much more needed to be done to translate it into action. A new Government, in charge following the adoption of the Policy, may lack a sense of ownership of it or commitment to its implementation. The Policy provides a degree of clarity, guidance and tools at all levels and for numerous actors, while the challenge remains to put it into practice. Some amendments to improve the Policy, particularly relating to strengthening institutional structures and clarifying responsibilities, were recommended to the Special Rapporteur by humanitarian partners.

19. The Special Rapporteur was informed that government coordination mechanisms were occasional and loose. Moreover, the roles of key institutions, including the Ministry of Refugees and Repatriations, remained unclear in practice and the institutions themselves were grossly underresourced and lacked the necessary tools, expertise, capacity and political support to fulfil their functions and implement the National Policy. He was also informed that coordination across such bodies and between national and provincial counterparts remained poor. Some assessed the responses of the Government to the situation of displacement, and its record in meeting its obligations, as well-intentioned but lacking in capacity, expertise, accountability and resources.

20. The activities of some directorates for refugees and repatriation at the provincial and district levels, under the leadership of provincial and district Governors and in coordination with the central line ministry, have demonstrated that some have the potential to function effectively. If adequately resourced and managed, they should supplement — and ideally take over — key roles currently undertaken by the United Nations and international humanitarian and development partners. This will be essential to the sustainability of interventions. However, the Special Rapporteur was informed that other such directorates are at best ineffective and at worst constitute "criminal enterprises". Numerous actors commented that government responses to internally displaced persons should be mainstreamed across relevant bodies and those Ministries that currently play only a limited role, including for education, finance, municipal governance, land, women's affairs, social affairs, health and rural and urban development.

21. Some internally displaced persons expressed considerable frustration at government assistance to them and noted the heavy reliance on international partners. One complained to the Special Rapporteur that government bodies simply referred them to the humanitarian workers and provided nothing. Some local officials and internally displaced persons consulted during field visits noted that, at the provincial and district levels, many were unaware of the key elements of the National Policy and major development initiatives, including the Citizens Charter, launched in October 2016, and the Afghanistan National Peace and Development Framework 2017-2021. During 2016, provisions for internally displaced persons were included in those frameworks, and as a result of continuous advocacy effort by agencies such as UNHCR, United Nations Human Settlements Programme (UN-Habitat), the United Nations Children's Fund (UNICEF) and the World Bank.

IV. Humanitarian challenges

22. Internally displaced persons described their experiences of displacement, their current situations and their needs. Many had been displaced multiple times. Their priorities included improved housing, education facilities for their children, access to health care and the provision of specialist services (including for pregnant women), water and sanitation, and access to livelihoods. Most lacked employment and income or the skills to find work in their new locations, having lost their former livelihoods in agriculture or animal husbandry. For the bitterly cold winter months, it was critical also to put in place winterization measures to ensure that the most vulnerable, including those without adequate shelter, were protected and found appropriate housing, heating and food. UNHCR was planning the most significant winterization effort of the past years, with more than $5 million invested.

23. The emergency responses of provincial governments and humanitarian partners to new and short-term displacement have been shaped by previous experience, with a focus on providing short-term or even one-off assistance in terms of food, emergency shelter and essential non-food items in some locations. For example, immediately prior to the visit, a mass displacement had been triggered by a Taliban offensive on Kunduz, which had resulted in thousands of people fleeing to Mazar-e-Sharif, Takhar Province, Kabul and other locations in north-east Afghanistan. Many had been sheltered in collective centres, including the Government-run Hadj Camp in Mazar-e-Sharif, and provided with emergency assistance by humanitarian organizations as well as government authorities, local businesses and civil society. As the situation in Kunduz stabilized, the majority had returned quickly, assisted by district authorities who had provided bus transportation.

24. Those interviewed by the Special Rapporteur who were about to return to Kunduz from the Hadj Camp welcomed the assistance provided to them, noting that they had experienced such displacement on previous occasions. Nevertheless, there remained a dangerous gap in the monitoring of returnees that must be filled in order to ensure safety and dignity for those returning to conflict-affected areas. While responses demonstrated that a system of emergency assistance and protection for internally displaced persons could be activated rapidly in some locations, it was unlikely to be the case throughout the country. Close monitoring was required in all displacement locations to ensure that adequate responses were in place.

25. Endemic corruption is undoubtedly hampering delivery of humanitarian assistance and progress towards durable solutions. The Special Rapporteur was informed that funding dedicated to strengthening the capacity of directorates for refugees and repatriation and other provincial bodies was unaccounted for and that some lacked chairs, desks and computers or any funds to conduct their work. Corruption also existed at the point of delivery of services, with interference in assessment and aid distribution by local authorities, political figures, the military and local militias. Inter-cluster information indicated that in several locations only a fraction of the families lodging petitions to receive emergency assistance as new internally displaced persons were genuine. While many of the petitioning families may simply not be eligible as they are in protracted displacement or simply poor non-displaced families, there is a need for clarity of leadership and

accountability in order to curb political interference in the assessment and distribution of humanitarian assistance and improve transparency.

A. Humanitarian access

26. Insecurity has increasingly impeded humanitarian access and prevented comprehensive needs assessments and the provision of assistance to many internally displaced persons. The humanitarian caseload is high in hard-to-reach areas, where almost a quarter of newly displaced persons were reported in 2016.[11] The United Nations estimates that a quarter of the areas hosting those persons are not accessible. While efforts are under way to provide assistance to communities in such areas, these are hampered by resource constraints, difficulty of access, bureaucratic barriers and security concerns. While it is essential to continue to focus on large-scale displaced populations settled in close proximity, such as camp-like settings, greater efforts are required to reach the majority of internally displaced persons who are settled with local host communities, acquaintances or in rented accommodation, and are often "invisible" in urban fringes and difficult to capture in terms of needs assessment.

27. While accurate statistics are missing, it is likely that many people are displaced internally — either voluntarily or owing to other factors — into territory that is under the control of non-State armed groups. According to some international non-governmental organizations, some 35 per cent of internally displaced persons are in areas under the control of such groups. Humanitarian actors have little or no access to the displaced in areas controlled by the Taliban or Islamic State in Iraq and the Levant, and their situation was impossible to assess accurately, while some reports indicated the Taliban provided some humanitarian assistance to the displaced. The Special Rapporteur recalled the responsibility of non-State armed groups in areas under their control to protect the lives and human rights of all civilians, including internally displaced persons, according to international humanitarian and human rights law and standards.

B. Civil documentation

28. Of particular concern to internally displaced persons is access to the national identity card, or "tazkira", which is essential for gaining access to services and justice, including education for children, and for purchasing land or property. Current regulations reportedly require those who have lost their tazkira or who have moved to another location to travel back to their place of origin to complete the administrative requirements for re-issuing of valid documents. For the displaced, fulfilling this requirement is frequently unsafe or beyond their economic means. Studies have highlighted that a disproportionate number of internally displaced women do not possess tazkiras. Those belonging to certain ethnic groups, including Kuchis, Jogis and other nomadic groups, also lack access to tazkiras and may never have been in possession of such documents.

29. While government sources stated that many people gain access to services without tazkiras, the Special Rapporteur emphasized that the challenges for internally displaced persons without documentation must be addressed as a protection concern that leaves individuals vulnerable and unable to gain access to critical services and assistance. In 2010, the Government began a programme to develop biometric identity cards or e-tazkira, which it had hoped to distribute by the 2014 elections. Progress was delayed owing to disagreements, including over the information to be contained on the cards, in particular the ethnicity of the holder. Recognizing the security and logistical challenges facing the displaced, numerous national and international partners urged the Government to take all steps necessary to speed up the process, develop a central database and ensure that tazkiras

[11] Including Helmand, Kandahar, Zabul and Uruzgan in the south, and Kunduz, Baghlan and Faryab in the north and parts of Kunar and Nangarhar in the east. See https://docs.unocha.org/sites/dms/Afghanistan/afg_2017_hnp_english.pdf.

can be issued to the displaced in their places of displacement rather than their place of origin and with no undue administrative or other barriers.

C. Food security, shelter and livelihoods

30. The National Policy on Internally Displaced Persons affirms the right of displaced people to request and receive food assistance. However, the World Food Programme highlighted to the Special Rapporteur that internally displaced persons and some other vulnerable urban populations were among the most food insecure populations in Afghanistan. It was pointed out that a number of recent factors had exacerbated the problem of food insecurity, including the deterioration in employment levels and economic slowdown in urban areas and the continued rural-to-urban migration flows. The influx of returnees to urban areas may also be adding pressure on food supplies, particularly for those in poverty or on the lowest incomes, including the displaced. The Special Rapporteur was informed that delivery of food assistance was frequently sporadic or non-existent for some internally displaced communities and that many regularly suffered from insufficient nutritional intake. The emergency support provided to all newly displaced was one-off rather than ongoing assistance. Most in protracted displacement were excluded from systematic food distribution.

31. Limited labour opportunities were available to those with rural skill sets who had displaced to urban centres, contributing to high unemployment rates among internally displaced persons. Many consequently find themselves burdened with debts, accrued to pay rents, secure food or cover medical costs that they are unable to pay back. Many in protracted displacement lack access to humanitarian assistance, which is largely confined to emergency interventions for newly displaced, and are heavily reliant on host families who may themselves be surviving in poverty. Some internally displaced persons live with the daily threat of eviction, for example, because they occupy public or private land without permission, if others claim or have been allocated the land or if they are unable to pay rents. In some circumstances, tensions over land and property can lead to violence.

32. Housing conditions in many locations for internally displaced persons are extremely poor: frequently cramped mud or tent shelters that provide inadequate protection from harsh summer or winter conditions. In community meetings, improved shelter was consistently among the highest priorities that displaced persons raised. At the time of the visit, the prospect of harsh winter temperatures was leading to considerable concern over the ability of the Government and its humanitarian partners to deliver winter assistance to families and the impact on health, particularly for the most vulnerable children and elderly. Many whom the Special Rapporteur consulted raised their concern about freezing winter temperatures and called for cash or fuel and blankets to meet their heating needs.

D. Access to health care

33. Internally displaced persons commonly stated that they had access only to basic and infrequent health-care provisions. A significant percentage were living in cramped and unhygienic locations, with an acute shortage of water and sanitation services and nutritional intake, leading to illness and water-borne diseases. The health-care challenges facing the displaced included specialist physical or psychosocial treatment needs due to conflict or trauma, which was not commonly available. While some locations for internally displaced persons had dedicated clinics providing basic health services, these were frequently poorly equipped, lack doctors and could not treat serious or emergency health problems. Restrictions on the construction of clinics, due to a population threshold criteria and funding shortages, meant that some communities lacked local health-care facilities and had to travel long distances for access to regular services.

34. Internally displaced persons stated that the cost of treatment or medicines was prohibitive and that public services were severely overstretched, forcing them into debt or to forgo treatment. Cultural factors reportedly restricted some women from having access to health services in displacement locations. Women also experienced discrimination in

having access to hospitals owing to prejudiced attitudes and discrimination on the basis of their rural origin, abject poverty or poor hygienic conditions. Of critical importance is the presence of female staff in health facilities to promote access to health for displaced women and girls. Across Afghanistan, UNICEF noted that every two hours a woman died owing to pregnancy-related causes. Displaced women frequently gave birth at home, without specialist care and in unsanitary conditions. Maternal mortality figures among displaced communities were consequently likely to exceed those of the general population.

35. The National Policy, in line with the Constitution, recognizes that internally displaced persons have the same right to basic health services as all other citizens, even those without a tazkira, and calls on the Ministry of Public Health to allow for the urgent health concerns of some displaced persons and their unique situations. The Special Rapporteur noted that health-care responses should be informed by and based on the needs of the displaced rather than being constrained by general policy or programme criteria, which do not take their unique circumstances into account. The challenges require innovative solutions for internally displaced persons, including the provision of mobile health services where other services do not exist.

36. The Minister of Public Health highlighted that providing health services to internally displaced persons was a high priority but acknowledged the serious limitations to health-care provision and that the capacity and resources provided by the Government could not cover all the health-care needs of all those requiring care. He acknowledged that, in an environment with a mixture of development and emergency priorities, the Ministry was not well prepared to respond to the emergency needs of the displaced and was heavily reliant on international partners. The cost of services such as mobile clinics was prohibitive, resulting in a suspension of such services.

E. Access to education

37. Based on constitutional rights to education, the National Policy gives the Ministry of Education responsibility to ensure that primary and secondary education is free and compulsory for all displaced children. It affirms that there should be school facilities located close to settlements for internally displaced persons; that displaced children in settlements have the right to attend school along with local children; and that no student should be denied access to a school owing to a lack of school records or tazkira, school books, uniforms or other supplies. UNHCR and UNICEF have advocated for the systematic inclusion of measures in favour of displaced children in the new strategy of the Ministry of Education. Nevertheless, in all of the Special Rapporteur's meetings with internally displaced persons, the issue of inadequate access to education, including due to lack of civil documentation, was consistently raised as a high priority.

38. Some 56 per cent of internally displaced persons are children, many of whom are out of school and may be required to work to support impoverished families. According to UNICEF, some 40 per cent of school-age children in Afghanistan are out of school.[12] The figures for displaced children are likely to be considerably higher. A key barrier to education for internally displaced children is lack of a tazkira, highlighted to the Special Rapporteur by internally displaced persons everywhere he visited. He was informed that the majority of internally displaced children and their parents had no tazkira, which restricted their access to education facilities. Other factors included lack of resources to buy school materials, distance from or availability of education facilities, and discriminatory practices that disadvantaged the displaced. Particularly poor levels of attendance of girls in education were reported, with one study reporting that 7 in 10 girls surveyed in informal settlements said they had never attended school.[13]

[12] See www.unicef.org/media/media_89782.html.

[13] See Norwegian Refugee Council, "Listening to Women and Girls Displaced to Urban Afghanistan" (January 2015). Available from www.nrc.no/globalassets/pdf/reports/listening-to-women-and-girls-displaced-to-urban-afghanistan.pdf.

V. Protection challenges

39. Many internally displaced persons, both newly or short-term displaced and those facing protracted displacement, experience significant and potentially life-threatening protection challenges. The rapid return of the displaced to areas of recent fighting may expose them to security threats, including explosive devices such as landmines, improvised explosive devices, explosive remnant of war and unexploded ordnance. Their homes may have been damaged or destroyed, and infrastructure and livelihoods may have been disrupted, including schools, hospitals and other public buildings, which are frequently used by parties to the conflict during the course of hostilities. United Nations partners expressed their concern that civilians were returning to conflict-affected areas, including Kunduz, without adequate security precautions, including ensuring the swift surveying, demarcation and clearing of unexploded ordnance.

40. The Internal Displacement Monitoring Centre notes that Afghanistan has more landmines and unexploded ordnance than any other country, accumulated since the beginning of the Soviet invasion in 1979.[14] Non-State armed groups make extensive use of victim-activated and other improvised explosive devices, and more than 20 per cent of all civilians who were killed or injured in 2013 by landmines, unexploded ordnance and abandoned improvised explosive devices had been internally displaced persons, according to the Mine Action Coordination Centre of Afghanistan.[15] It is essential that return is voluntary and that the displaced do not face pressure to return prematurely, for instance, by halting emergency assistance in areas of displacement. Assumptions that internally displaced persons return to conditions of safety and relative normality must be verified and necessary assistance provided in their places of origin.

41. The situation of some vulnerable groups within internally displaced populations is cause for concern, including single women with no community support; persons with disabilities; older persons and those who may be injured, ill or experiencing trauma or distress owing to conflict and the experience of displacement; and nomadic groups, such as Kuchis and Jogis, who are discriminated against or denied access to services. Specialist services and psychosocial support are currently inadequate or non-existent and must be stepped-up.

A. Situation of internally displaced women and girls

42. Displaced women and girls frequently face unique challenges associated with their displacement, including female-headed households, pregnant women and others who are particularly vulnerable. For those from highly conservative communities, displacement may cause or exacerbate social isolation owing to the disruption of family and community networks, economic exclusion and vulnerability to violence. Displaced women may face enhanced gender-based constraints to gaining access to education, health and employment. They may also lose freedoms and networks they had previously enjoyed and be more vulnerable to domestic violence in environments characterized by inadequate and crowded accommodation, unemployment, insufficient water and sanitation, and food insecurity.

43. UNICEF highlighted that early marriage involving girls under the age of 16 years and as young as 7 to 9 years is more prevalent among internally displaced persons. Early and forced marriage is sometimes seen as a solution to pay debts or provides a means to obtain money, land or property. The United Nations Population Fund reported that Afghanistan had a high adolescent birth rate (90/1,000 women aged 15-19 years), which

[14] See www.internal-displacement.org/south-and-south-east-asia/afghanistan/2015/afghanistan-new-and-long-term-idps-risk-becoming-neglected-as-conflict-intensifies.

[15] See www.internal-displacement.org/south-and-south-east-asia/afghanistan/2015/afghanistan-new-and-long-term-idps-risk-becoming-neglected-as-conflict-intensifies.

poses a major risk to young girls' health.[16] While among the general population the age of childbirth was increasing, this was not the case among internally displaced women.

44. Women informed the Special Rapporteur of their desire for skills training so that they could contribute financially to their families and improve the quality of their lives. The Special Rapporteur visited projects for women in such fields as tailoring, carpet weaving and embroidery, which empower them with skills and give them the opportunity to earn an income through the sale of such crafts. However, those initiatives are frequently small-scale and are no substitute for full access to education and access to sustainable livelihoods for women as well as men. Housing, land and property rights are frequently restricted for women in Afghanistan, leaving them highly vulnerable. Patriarchal social structures present barriers to widows and female heads of households in gaining access to land and property rights.

45. The Special Rapporteur noted that women were absent from almost all of his meetings with internally displaced communities, compelling him to make special arrangements to consult separately with them through female members of his delegation. It was evident that, despite the efforts of some protection actors, the voices and concerns of women were poorly reflected — if at all — in consultations with national authorities and many other actors with a role in providing assistance. Measures were required to ensure that the views and concerns of women and girls were heard, valued and responded to.

B. Child rights and protection concerns

46. In its midyear report 2016 on the protection of civilians in armed conflict, UNAMA stated that the consequences of displacement on the civilian population were particularly harsh for children. Aside from physical injuries, the psychological well-being of children emerged as a primary concern during assessments of internally displaced persons. Children displaced by conflict-related violence also experienced limited access to education owing to insufficient education facilities in receiving communities and documentation requirements for enrolment. Furthermore, poverty placed additional pressure on children to contribute to income-generating activities at the expense of their education.[17]

47. Child recruitment by non-State armed groups remained a concern and was fuelling displacement in some cases as families displace themselves to avoid children being recruited into non-State armed groups. Some commentators expressed their concern over a generation of young people with psychosocial distress that was not dealt with adequately owing to a lack of service provision or access to specialist medical support. Unaccompanied children were particularly vulnerable and required specialist care and protection mechanisms, including protection from trafficking.

48. The Special Rapporteur was informed that internal displacement and poverty resulted in displaced children becoming more vulnerable to exploitation of their labour in hazardous industries, including brick-kilns, metal works or garbage picking. In Kabul, the Special Rapporteur met with a 7-year-old boy who worked as a garbage collector to support his family, and learned that such activities were common among displaced children who worked to provide a small income for their families. Children may also be employed in carpet weaving and work long hours for meagre wages. Without other means of assistance or support, families saw few options other than to send their children to work. While there is legislation prohibiting child labour in hazardous industries, it is poorly implemented in practice.

49. During a visit by the Special Rapporteur to Herat, UNICEF noted that estimates suggested that 8,000 to 10,000 children were working on the streets, 27 per cent of whom were internally displaced children residing in the city. Unaccompanied or orphaned

[16] See United Nations Population Fund, State of World Population 2012 (New York, 2012). Available from http://www.unfpa.org/publications/state-world-population-2012.

[17] See https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final.pdf.

internally displaced children, whose lack of resources may leave them particularly vulnerable to abuse or trafficking in persons, must also receive dedicated assistance. Large numbers of unaccompanied and orphaned Afghan boys had been reported on refugee and migrant routes. With few countries fully meeting their international obligations for the welfare and protection of unaccompanied children, if returned they faced a precarious future.

C. Situation of host communities and social cohesion

50. Host communities provided a critical life-support system for internally displaced persons, the vast majority of whom found housing and assistance within family or social or tribal networks. Relations with host communities were frequently good and the displaced often moved to areas with such connections where they could find strong support networks. However, in situations of poverty, limited employment or livelihood options, food insecurity and shortage of available land or space, the potential for tensions increased. While many hosted internally displaced persons at limited cost to them, in some urban centres, some hosts may earn a small income by renting land or property to displaced persons. If the displaced become unable to pay owing to lack of livelihood options, this may become an additional source of tensions or lead to their eviction.

51. Many people in host communities may themselves be in situations of chronic poverty. Consequently, as displacement-affected communities, their situation and the added burden on them of sharing food and resources must be acknowledged. The pressure that high numbers of internally displaced persons and returnees places on essential services means that overstretched public health, education and other services are under further pressure to respond to vulnerable communities, and services may be reduced for host communities. Livelihood opportunities for host communities may be reduced owing to the abundance of low-skilled workers in the labour market, which is already saturated, as the displaced seek employment that would normally have been taken by those in host communities.

52. The diverse ethnic and tribal composition of Afghan society must be considered in internal displacement responses. Factors including historic tribal tensions or conflict and the proximity of different ethnic groups, combined with land shortage and the pressure of poor service provision, may create tensions. Solutions for internally displaced persons must prevent intercommunal tensions from emerging due to the impact of population movements, integration or resettlement. Where necessary, social cohesion measures should be implemented and there should be advocacy with authorities to prevent the exploitation of internal displacement for political purposes, as well as intolerance, discrimination or rejection of local integration on ethnic or political grounds.

VI. Prospects and challenges for progress towards durable solutions

53. Addressing protracted displacement within national development frameworks is vital in order to achieve durable solutions. The Government tends to consider internally displaced persons primarily within the realm of humanitarian assistance, limiting the scope of responses to protracted displacement and thereby causing assistance and protection gaps. Historically, it has only supported return as a durable solution. Nevertheless, due to the escalating conflict and lack of safe options for return, a political shift has seen greater support for local integration and a pragmatic recognition by the authorities in some provinces that urbanization is an inevitable phenomenon in the country's development path. However, the lack of sufficient budgets means that many who could benefit from durable solutions programmes continue to receive only limited humanitarian aid or are left to fend for themselves.

54. Assessments indicated that the majority of internally displaced persons in protracted displacement preferred to integrate locally and not return to their places of origin. However, the acceptance of local integration by district and provincial authorities was not always

evident. Ethnic and political affiliations, regional power dynamics and resources were factors influencing the willingness of provincial actors to support the displaced. Resettlement elsewhere in the country as a durable solution had not been fully considered for some for whom such a measure could be the desired or most viable option. No early recovery cluster existed that could be a catalyst in funding and driving resilience-building, early recovery and livelihood programmes. The reintegration working group, co-chaired by the Ministry of Refugees and Repatriations and UNHCR with the active participation of other early recovery actors, had reportedly begun to address internally displaced persons alongside the challenges of integrating returning refugees, although its activities for internally displaced persons must be stepped up.

55. Some positive national initiatives aimed at development and stability, including the Afghanistan National Peace and Development Framework [18] and the Citizens Charter Afghanistan Project, include internally displaced persons and returnees in their provisions, after sustained advocacy by agencies including UNHCR, UN-Habitat and IOM. The Citizens Charter Afghanistan Project creates a social contract between the Government and community development councils throughout Afghanistan to improve core infrastructure and social services to communities. However, attention to the displaced in those frameworks needs to be reinforced, and numerous provincial actors were unaware of them and how they should be implemented for the displaced and host communities. Consultation and awareness-raising were required, including among the displaced, to ensure they received continued attention as the initiatives moved into implementation phases.

56. Land management and allocation processes existed but challenges persisted for internally displaced persons to secure land. In some locations visited, they were able to purchase or legally occupy land and gain title or rights to occupancy, particularly favoured by community network and tribal affiliation. This provided an essential basis of secure land tenure upon which to construct homes and begin to re-establish livelihoods. However, many lacked access to land and remained in precarious situations, reliant on host families, in informal settlements without rights to remain, and at risk of eviction. In 2005, in response to the massive challenge of landlessness for returning refugees and internally displaced persons, Presidential Decree No. 104 on land distribution for housing to eligible returnees and internally displaced persons was adopted, commonly known as the Land Allocation Scheme.

57. According to Decree 104, the eligibility criteria for internally displaced persons required possession of a tazkira, documents confirming internal displacement — which are never issued by the authorities — and proof that they did not own land or a house in Afghanistan, all of which were difficult or impossible for displaced persons to provide. The process was frequently described as overly bureaucratic and open to corrupt practices, including the payment of bribes and rent-seeking behaviour. By the end of 2014, UNHCR statistics indicated that only 57,000 plots of land had been allocated out of 266,000 applications.[19] In Herat, reports stated that the municipal land commission had distributed 14,000 parcels of land to government officials and only 850 to returnees and internally displaced persons.[20]

58. Implementation of the Land Allocation Scheme was beset by legal, technical and other problems, including lack of land availability, corrupt, ineffective or mismanaged processes, and the weakness of the Ministry of Refugees and Repatriations, which was designated as the authority in charge of its implementation. Problems included the allocation of "common" land perceived as belonging to other communities; the allocation by officials of land for personal gain or to ineligible recipients; a lack of land availability due to land-grabbing; inappropriateness of land due to distance from cities, service or livelihood opportunities; and biased allocation favouring certain groups or government

[18] See http://policymof.gov.af/afghanistan-national-development-framework/.

[19] According to reports, only 39,000 beneficiaries had received title deeds, while only some 21,000 plots had actually been occupied.

[20] See www.afghanistan-analysts.org/afghanistans-returning-refugees-why-are-so-many-still-landless/.

employees. As at January 2017, a revised set of criteria was reportedly under development to allocate land to those most vulnerable in collaboration with United Nations agencies.

59. Communities in protracted displacement in Herat and Mazar-e-Sharif had taken the decision not to return to their places of origin. Some were able to buy land or had been allocated land by the Government and had begun the process of local integration that could result in durable solutions that would meet their needs in terms of housing, service provision and livelihoods. While incomplete and requiring continuing support, such positive practices offered models that could be replicated to benefit thousands more internally displaced persons. They also benefited host communities, which also required assistance and services. However, the vast majority of communities of persons in protracted displacement in Afghanistan who lacked the prospect of safe return were not benefiting from similar projects.

A. Herat

60. Herat Province, in particular Herat city, and neighbouring Injil District have historically been a significant destination for internally displaced persons. By the end of 2015, Herat hosted approximately 10 per cent of the total displaced population (120,000 people), representing a significant caseload of persons in protracted displacement, some of whom had lived there for two decades.[21] In 2013, Herat, Mazar-e-Sharif and Jalalabad were selected as pilot provinces in which provincial action plans were developed under the framework of the National Policy on Internally Displaced Persons, leading to positive durable solutions projects. A survey was undertaken in 5 out of 18 informal settlements for persons in protracted displacement to identify durable solutions options.

61. The Special Rapporteur visited initiatives undertaken jointly with United Nations agencies, international non-governmental organizations, the directorates for refugees and repatriation, the Herat Governor's and Mayor's offices, the Department of Urban Development and the Afghanistan Independent Land Authority. In line with the National Policy, a joint response plan defined priority objectives including: to facilitate access to land and improve security of tenure; to improve livelihood opportunities and skills development; to increase access to tazkiras; to improve shelter and housing; to improve community participation, mobilization and information; to improve food security; to improve access to public and basic services such as education, water, sanitation and hygiene and health; to protect interventions for vulnerable displaced populations; and to improve coordination to systematize assistance and ensure funding for durable solutions.

62. The Governor of Herat acknowledged that many internally displaced persons did not wish to or could not return safely to their places of origin and that local integration and the incorporation of the displaced into urban planning, including a master plan for Herat city, were required. He noted that some displaced persons had to be allocated land for free since they could not afford to purchase it, but noted at the same time the high cost of infrastructure development and limited livelihood opportunities as major challenges in the local integration process. He noted his desire to avoid unplanned urban sprawl and informal settlements, resulting in pressure on inadequate service provision and security challenges. While noting willingness to absorb those in protracted displacement and provide services to them, he stressed that unlimited integration of newly displaced persons would not be possible without more resources and appropriate planning.

63. The Governor emphasized the reliance on the international community due to the limited resources of the Ministry of Refugees and Repatriations and other national bodies to support district and provincial actors. Barriers also existed in gaining approval for projects from the national Government. It was noted that projects dedicated to internally displaced persons could be politically difficult unless they were also seen as being of benefit to the

[21] See Inter-Agency Durable Solutions Initiative "Profile and Response Plan of Protracted IDP Settlements in Herat" (October 2016. Available from http://earlyrecovery.global/sites/default/files/inter_agency_durable_solutions_report_herat_october_2016_english_version_636173927520870000.pdf.

general population and as avoiding an influx of displaced persons from neighbouring provinces. The Governor highlighted that the priorities for the displaced were to obtain land titles and affordable housing. He gave a briefing on an initiative to create a model "suburb" of affordable housing on land in Maslakh that had been allocated to those in protracted displacement. The land, which was an existing site for those in protracted displacement and a former camp for internally displaced persons, was located 15 kilometres outside central Herat, close to a major arterial highway that led to the Islamic Republic of Iran.

64. Implementation partners, including UN-Habitat, expressed concern that the Maslakh project as presented by the Governor would require the demolition of existing dwellings for internally displaced persons. They proposed an amended plan for development around existing structures and offered technical expertise to the authorities to find a compromise. The Governor emphasized the desire for quality homes and a liveable city for all, not just another camp for internally displaced persons. The Special Rapporteur emphasized that solutions should be found in consultation with those for whom the project was intended and that, at all costs, the project should remain for the benefit of the displaced and not be diverted to others. He emphasized the need for holistic approaches that incorporated service provision and livelihoods for the project to be sustainable in the long term.

65. The Special Rapporteur visited Maslakh, where he consulted with internally displaced persons, local authorities and partners of the United Nations and international non-governmental organizations. The displaced, some who had been there for over 15 years, noted their desire to remain, citing security concerns in their places of origin, despite having poor levels of service provision. One stated that, for 16 years, nobody had cared about them and that, while others now helped, they still lacked basic services. They expressed optimism that things would improve given developments regarding security of land tenure. They stated that their children had attended school for only two hours per day up to grade 6, noting that, without tazkiras, they could not attend city schools. Other issues of priority for the displaced included provision of quality housing, employment, gravelled roads, electricity and water supply and improved health-care facilities.

66. The Special Rapporteur also visited Karizak, a site in a peri-urban area allocated by the municipality to provide durable solutions to some internally displaced persons from the informal settlement in Shaidayee who had faced forced eviction after the land had been allocated to families of former army and police officials and other civilians in Herat. In April 2016, after sustained advocacy by the Humanitarian and Resident Coordinator, a planned eviction by the Herat municipality had been halted by the Governor until a human rights-compliant relocation plan could be prepared. The site, which was under development, incorporated a UNICEF-funded water supply project, while UNHCR and the Norwegian Refugee Council were constructing homes. Internally displaced persons expressed hope that their situation would improve on the strength of such initiatives. However, some expressed concern about the lack of progress on projects and that they might not be provided for all. They called for urgent assistance, particularly since winter would bring freezing conditions.

B. Mazar-e-Sharif

67. In Mazar-e-Sharif, the Special Rapporteur visited the village of Rabat in Chimtal District, 25 kilometres north of the district centre and home to 101 families (707 individuals) who had been displaced by heavy conflict in Faryab Province. Some had purchased plots of land with the support of local kinships, having sold their assets in Faryab. A local integration project to find durable solutions had been initiated, based on secure land tenure and incorporating a multisectorial approach and initiatives across implementing partners, coordinated by directorates for refugees and repatriation and UNHCR. A key element was the construction of shelters by the German development body, Gesellschaft für Internationale Zusammenarbeit, which worked with communities and contractors to build homes for 74 families and rehabilitate a school for internally displaced and local children.

68. In addition to housing, the project included the installation of latrines, a water supply system and solar panels for electricity, and the provision of essential non-food items. Skills training projects were provided for internally displaced women in tailoring, embroidery and carpet weaving, so they could earn a small income. Women were consulted directly to identify their needs and wishes. Community leaders described good relations with the local host communities, which had provided plots of land for them to purchase. Implementing partners noted that, crucially, the project brought benefits to the host community in terms of service provision for all.

69. Internally displaced persons described arriving early in 2015 and their decision not to return to Faryab due to the severe insecurity and conflict, and because areas were under Taliban control. One community leader said they had lost everything and had no hope to go back. While praising the district Governor and international partners, they called for enhanced services, including improved and accessible health services and a gravelled road to improve access. A high priority for the community was livelihood opportunities, ideally in the form of livestock and animal husbandry, or employment and income-generating possibilities beyond the small-scale initiatives for women. Education remained a problem, as the only functioning schools were in villages perceived as too far away.

70. The area remained a challenging environment for the settlement and integration of internally displaced persons, because of its susceptibility to annual flooding, and was on a "blacklist" of insecure districts. Some displaced persons stated that they had tazkiras, while others said that services such as education were accessible, even for those without the cards. However, lack of documentation continued to cause concern. Some noted that it was necessary for them to return to their places of origin to obtain tazkiras and urged authorities to issue them in their places of residence. Partners noted that the population of Rabat was too small for the Government to provide a health clinic or school, while mobile clinics were too costly to provide.

71. The Special Rapporteur welcomed the multi-agency approach, but was concerned to learn that funding issues, including for Gesellschaft für Internationale Zusammenarbeit, had significantly reduced the number of sites for displaced persons and communities that were able to benefit from such projects. Initially, the project had been planned to include 12 internally displaced and host communities, but was reduced to just 1. Having begun community engagement and consultation exercises in other locations, partners expressed frustration that more projects could not be taken forward owing to funding shortages.

VII. Role of the international community

72. The Government remains heavily reliant on international assistance to meet the massive challenges owing to its limited capacity to respond and constraints from the conflict, economic crisis and disasters. It is vital that international attention to Afghanistan does not wane further at this vital time and that humanitarian and development support is maintained and enhanced. United Nations and other international partners are particularly challenged by declining funds for their essential work, while the needs of internally displaced persons and others are increasing significantly on the ground.

73. On 7 September 2016, a flash appeal was launched to raise $150 million to meet the urgent needs of Afghanistan for the remainder of 2016. The donor community must respond positively to the 2017 Humanitarian Response Plan, which calls for $550 million to help about 5.7 million of the most vulnerable people. Immediate and long-term funding is required not only for emergency responses but also to enable humanitarian and development actors to begin to better plan and implement resilience-building, recovery and livelihood projects to address protracted displacement situations.

74. The Brussels pledging conference, held in early October 2016, demonstrated that the plight of the Afghan people continued to be of concern to the international community. A generous $15.2 billion was pledged by donors, with a focus on peace, State-building and development programmes over four years. The Special Rapporteur encouraged all partners to ensure that funding and national initiatives for development included internally displaced persons, who require immediate and longer-term assistance. Equally, the wider donor

community should not consider the pledges made in Brussels as a reason to turn away from the urgent need to provide emergency funding to cover essential humanitarian funding gaps.

VIII. Conclusions and recommendations

A. Conclusions

75. Afghanistan has been beset by conflict and crisis for decades. For many, conflict has been a constant presence, and internal displacement has become a regular occurrence or a permanent feature of their lives. The remarkable resilience of the Afghan people and their ability to cope in conditions of great adversity must not justify complacency or lack of action to address the grave situation of hundreds of thousands who are either newly displaced or who are facing multiple or protracted displacement. The impact on their lives is immense and the suffering that they endure is devastating and must be recognized and addressed consistently by the Government and its international partners.

76. The considerable challenges facing the Government have a clear impact on its ability to respond effectively to the situation of internally displaced persons. While political will to protect them is emerging, this must translate into more effective Government-led responses. The National Policy on Internally Displaced Persons, while ambitious in its scope and in need of further adaptation, remains a key instrument to guide government efforts to address the needs of internally displaced persons, and provide durable solutions to them. However, it is a neglected resource of which the Government must take ownership, including with a renewed commitment to its implementation. This will require resources as well as information and sensitization across all relevant stakeholders and implementing partners, including internally displaced persons.

77. With internal displacement trends and returns expected to rise dramatically in 2017, a serious escalation of the conflict and displacement crisis would overwhelm the limited capacity of the Government and its partners to respond. Yet international attention to Afghanistan has waned in the light of conflicts in Iraq, the Syrian Arab Republic, Yemen and elsewhere. The international community must remain consistent humanitarian and development partners to Afghanistan and maintain a focus on providing support and assistance to address the needs of internally displaced persons. The pledges made at the Brussels Conference are timely, if honoured, but urgent additional funds are required to meet immediate needs.

78. Protracted urban displacement is a growing trend, requiring durable solutions in the context of development, urbanization and urban planning. Some positive progress is under way in Herat and Mazar-e-Sharif, where projects are securing landownership or occupation rights, providing homes, essential services and livelihoods. They demonstrate that durable solutions do not always lie in return and can be achieved where political will, resources, cooperation and community engagement, including with host communities, are in place. However, such positive practices are the exception and must be extended and replicated for the benefit of thousands more internally displaced persons.

79. Funding was consistently cited as the greatest barrier to progress by government officials. However, a deficit of good governance and the failure of national institutions to deliver essential responses and assistance to internally displaced persons are evident. Despite considerable financial and other resources provided, not enough is filtering down to displaced communities in need. In line with the outcomes of the World Humanitarian Summit and the Grand Bargain, new approaches must be adopted to ensure that more funds are provided to local partners to implement provincial action plans that reach and assist more displaced communities. Fundamental elements must include improved management, efficiency, transparency and accountability at all levels.

B. Recommendations

80. **The Special Rapporteur recommends that the Government of Afghanistan:**

(a) **Renew its commitment to the National Policy and its implementation, and strengthen awareness-raising activities to promote knowledge of the Policy among officials, line ministries and their provincial departments, and internally displaced persons;**

(b) **Strengthen the national institutional response framework, including by clarifying roles, creating a single coordinating body to avoid duplication, and improving coordination across national, provincial and district actors;**

(c) **Review the role and functions of the Ministry of Refugees and Repatriation and to increase its policy and coordination role, working with other key line ministries and provincial and municipal authorities;**

(d) **Expand local initiatives through provincial action plans for progressive implementation of the National Policy, initially in those provinces worst affected by displacement, in collaboration with national bodies and international partners, including through the appropriate devolution of financial resources to provincial authorities;**

(e) **Take measures to improve regular and consistent access by humanitarian actors, with appropriate security in place, to all areas of displacement;**

(f) **With the active role of relevant ministries, improve protection monitoring and vulnerability screening, with a focus on vulnerable groups, including women and children, unaccompanied children, older persons and persons with disabilities;**

(g) **Ensure that tazkiras and all essential documentation required to gain access to assistance and services are issued in places of displacement, with no undue cost or administrative or other barriers;**

(h) **Increase efforts to reach internally displaced persons outside of settlements, including through information and outreach projects and distribution points for food and non-food items;**

(i) **With the Ministry of Women's Affairs and their provincial departments, ensure measures to tackle internal displacement are gender-sensitive and that female service providers, including health workers, are available to displaced women;**

(j) **Improve land distribution to internally displaced persons without undue legal, administrative or financial barriers, ensuring land is viable and appropriate to housing and livelihood options and preferences. Review and reallocate land to the displaced that was misallocated to those not meeting eligibility criteria;**

(k) **Ensure that the prohibition of illegal forced evictions of internally displaced persons is respected by all actors and that, where possible, rights of ownership or occupation are provided to them. Where land occupied by the displaced is legitimately claimed, ensure that alternative accommodation or land is provided following legal eviction;**

(l) **Ensure a mixture of durable solutions are available to internally displaced persons, including supported return, local integration or resettlement elsewhere in the country, in consultation with them, including women, and taking into account their preferences;**

(m) **Ensure that any return of internally displaced persons to their places of origin takes place voluntarily, in conditions of security and dignity and with appropriate support in place;**

(n) **Establish consultative and participatory mechanisms to ensure that internally displaced persons, including women and other vulnerable groups, are fully involved in decisions affecting them.**

81. **The Special Rapporteur considers that the United Nations, the international community and international donors should:**

(a) **Respond rapidly to requests for humanitarian funding and material assistance across humanitarian sectors to ensure that the Humanitarian Response Plan for 2017 is fully funded and financial pledges are delivered rapidly;**

(b) **Enhance their humanitarian assistance to internally displaced persons and support initiatives that address the priority needs of those populations, including progress towards durable solutions;**

(c) **Increase funding to provincial partners mandated to deliver durable solutions projects on the basis of local circumstances. Funding should be provided in tranches based on reaching project targets and on monitoring and accountability processes;**

(d) **Provide expert guidance, training, tools and resources to assist in building national capacity and expertise among national authorities and civil society partners in order to strengthen implementation of the National Policy;**

(e) **Assist national actors in the collection, monitoring and tracking of data on internally displaced persons and profiling of displaced populations and humanitarian and protection concerns;**

(f) **Explore possibilities to extend and/or replicate positive durable solutions projects in Herat and Mazar-e-Sharif in other provinces;**

(g) **Ensure the timely and rapid engagement of international development partners, including the World Bank, to assist the Government in the implementation of measures to support durable solutions for internally displaced persons;**

(h) **Support — through technical cooperation measures in the field of transitional justice, community reconciliation and peacebuilding — initiatives to ensure justice, restitution and compensation for internally displaced persons, including women, and consider adopting specific measures to address ethnic and tribal tensions.**

82. **The Special Rapporteur recalls the responsibility of non-State armed groups in areas under their control to protect civilians, including internally displaced persons, according to international humanitarian and human rights law and standards. They should provide safe and unhindered access to humanitarian actors to conduct their work.**